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**TRANSCRIPT OF RECORD.**

**SUPREME COURT OF THE UNITED STATES.**

**OCTOBER TERM, 1895.**

**No. 525. App 43**

**ELOISA L. BERGERE FOR HERSELF AND THE OTHER  
HEIRS OF MANUEL ANTONIO OTERO AND MIGUEL  
ANTONIO OTERO, APPELLANT,**

**VS.**

**THE UNITED STATES ET AL.**

**FILED MAY 22, 1896.**

**No. 538. App 46**

**THE UNITED STATES, APPELLANT,**

**VS.**

**ELOISA L. BERGERE FOR HERSELF AND THE OTHER  
HEIRS OF MANUEL ANTONIO OTERO AND MIGUEL  
ANTONIO OTERO.**

**FILED JULY 16, 1896.**

**APPEALS FROM THE COURT OF PRIVATE LAND CLAIMS.**

**15913 and 15949.**

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## SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. 625.

ELOISA L. BERGERE FOR HERSELF AND THE OTHER  
HEIRS OF MANUEL ANTONIO OTERO AND MIGUEL  
ANTONIO OTERO, -APPELLANT,

VS.

THE UNITED STATES ET AL.

No. 658.

THE UNITED STATES, APPELLANT,

VS.

ELOISA L. BERGERE FOR HERSELF AND THE OTHER  
HEIRS OF MANUEL ANTONIO OTERO AND MIGUEL  
ANTONIO OTERO.

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 APPEALS FROM THE COURT OF PRIVATE LAND CLAIMS.
 

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1 UNITED STATES OF AMERICA,  
*Territory of New Mexico, ss:*

Be it remembered that heretofore, to wit, on the 9th day of January, A. D. 1893, Eloisa L. Bergere for herself and the other heirs of Manuel Antonio Otero and Miguel Antonio Otero, by her attorneys, James W. Vroom and P. L. Vanderveer, filed in the office of the clerk of the Court of Private Land Claims in and for the Territory of New Mexico a petition, in which said Eloisa L. Bergere et al. are plaintiffs and the United States of America is defendant; which said petition is in the words and figures following, to wit:

2 UNITED STATES OF AMERICA,  
*Territory of New Mexico:*

In the Court of Private Land Claims between Eloisa L. Bergere for herself and the other heirs of Manuel Antonio Otero and the United States of America and Joel P. Whitney and Franklin H. Story.

*Petition.*

*To the Honorable the Chief Justice and Associate Justices of the Court of Private Land Claims:*

Your petitioner, a resident of the Territory of New Mexico, exhibits this her petition against the United States of America and Joel P. Whitney and Franklin H. Story, respectfully shows unto your honors that on February 4th Bartolome Baca appeared to the then governor of the province of New Mexico for a grant of land in said province in manner following, to wit:

His Excellency the ACTING GOVERNOR:

Bartolome Baca, captain of the volunteer militia company of cavalry of the village of Albuquerque, residing in the jurisdiction of Tome, before you with the greatest respect and subordination, as by law required, represents—

That he has a number of wool-growing stock, horn cattle, and horses without possessing legitimate property in which to place them, together with shepherds, cattle herders, and horse herders, to have charge of them and secure their preservation, they moving between different places, exposed to all the contingencies which their being so scattered causes. There being vacant on the other side of the Abo Mountain a tract of land which they call the Torreon, and which embraces on the north side to the Buffalo Creek (Monte del Cibolo), on the south to the Crow Springs (Ojo del Cuervo), on the east to the springs of water which they call the Estancia Springs, and on the west to the said Abo Mountains, he prays you to be pleased to grant the same in royal possession in the exercise of the powers conferred by His Majesty, in order to establish thereon a permanent ranch or hacienda, which he engages to occupy with his stock, sustaining the same with boys (masos), servants, and armed men (armados), who may defend it against the invasions of the enemies without abandoning it; and he will also, should it to him be possible, open land for cultivation, whether they be irrigable or temporal, for the advancement of agriculture, for although the watering places it contains are sterile



and small, he proposes to improve them with reservoirs and by other expedients which will give them all the yields that may be ; and he guarantees that it has no present owner whatever, nor has there ever been any known for it. Therefore he requests you to be pleased to grant his petition in conformity with the law, commanding the royal justice of his district to give him legal possession, with the corresponding documents and other formalities which are required, whereby he will receive favor, grace, and justice ; he declares that he is not in dissimulation and what is necessary, etc.

SAN FERNANDO, *February 4th*, 1819.

That the said governor granted the said petition in manner following, to wit :

SANTA FE, *July 2nd*, 1819.

As he prays for according to law, with the understanding that no injury results to a third party, but rather stock raising and cultivation will be enhanced under the conditions asked, Mr. Jose Garcia de la Mora will proceed to give the possession, designated the limits and officiating duly, which being concluded, he will transmit the expediente to the superior office so that, if it be approved, the corresponding testimonio may be ordered to be given to the petitioner.

(Signed)

MELGARES.

That afterwards, to wit, on September 12th, 1819, the said Jose de la Mora placed the said Baca in possession of the land granted to him as aforesaid in the manner following, to wit :

In execution of the decree of July 2nd, 1819, I, Jose Garcia de la Mora, the justice commissioned by Lieutenant-Colonel Facundo Melgares, governor of the province of New Mexico proceeded, in company with captain of volunteer militia, Bartolome Baca, to examine the tract he applies for, and knowing that it is wild land and without injury to a third party, I have placed him in possession in the name of the King. I designated to him as his boundaries on the south the Crow Springs (Ojo del Cuervo) following its range (cordillera) to the Chico Springs (Ojo del Chico) ; on the east to the Pedernal Hill (Cerro del Pedernal) ; on the north the Buffalo Springs (Ojo del Cibolo) ; on the east the summit of the mountain (altura de la cierra) ; the said gentleman remaining acquiescent and grateful to the said magistrate for the benefit done him, obligating himself to increase with his herds may subsist, delivering the whole for your approval, for the satisfaction of the fees which may be enclosed upon them.

4 Therefore I transmit this to the superior authority, so that being seen by you it may determine as it shall seem just.

That afterwards, and some time during the said year 1819, the said expediente was by the said justice of the peace transmitted to the said Facundo Melgares, the then governor of the said province, and by him approved ; and that thereupon the corresponding testimonio of the grant was then and there delivered to the said Baca, and he entered into the full and lawful possession of the said tract of land so as aforesaid granted to him. That copies and transcripts and translations of the said papers of the grant are herewith filed in duplicate, the originals being on file in the office of the surveyor-general for New Mexico as private land claim No. 126.

And your petitioner further shows that afterwards, to wit : On November the 28th, 1829, by and with the permission and assent of the said Baca, the then governor of the Territory of New Mexico, granted a portion of the said tract of land, so as aforesaid granted to the said Baca, to the town of Manzano ; and that your petitioner further shows that she, as the legal representative of the said Baca, makes no claim of title to the tract of land so granted to the town of Manzano. And your petitioner further shows that afterwards, to wit : on March 17th, 1834, by and with the permission and assent of the said Baca, the then governor of the Territory of New Mexico, granted a portion of the said tract of land so as aforesaid granted to said Baca, to the town of Tajiue, and your petitioner further shows that she, as the legal representative of the said Baca, makes no claim of title to the tract of land so granted to the town of Tajiue.

And your petitioner further shows that afterwards, to wit : on March 3rd, 1841, by and with the permission and assent of the said Baca, the then governor of the department of New Mexico, granted a portion of the said tract of land so as aforesaid granted to the said Baca, to the town of Torreon ; and your petitioner further shows that, as the legal representative of the said Baca, she makes no title to the tract of land so granted to the town of Torreon.

And your petitioner further shows that afterwards, to wit : on day of , 1841, by and with the permission and assent of the said Baca, the governor of the department of New Mexico granted a portion of the said tract of land, so as aforesaid granted to the said Baca, to the town of Chilili ; and your petitioner further shows that she, as the legal representative of the said Baca, makes no claim of title to the tract of land so granted to the town of Chilili.

5 And your petitioner further shows that afterwards, to wit, on December the 7th, 1843, the then governor of the department of New Mexico made a pretended grant of the portion of the said tract of land, so as aforesaid granted to the said Baca, to one Antonio Sandoval, and that said pretended grant of land was illegal and void.

And your petitioner further shows that said defendant, Whitney and Story, sometimes allege and pretend that they are the lawful owners of the said tract of land so as aforesaid granted to the said Antonio Sandoval, and which is included within the boundaries of the grant so as aforesaid made to Bartolome Baca, and that they pretend to claim the ownership of the said tract of land by reason of certain proceedings heretofore had by the then governor of the department of New Mexico, to wit : That the said Sandoval petitioned on December 5, 1845, the said governor to grant him the said tract of land because of services rendered to the State and monies due to him from the Government, in his petition praying that your excellency, in your benevolence, be pleased in the name of the supreme authority of the Mexican nation to do me the favor and grace to grant me in possession integram (unconditional) the said tract of land, because the land is vacant and in condition of mortmain. That thereupon, on December 7, 1845, the governor acceded to the petition in the manner following, to wit :

"The Government being convinced of the valuable services Don Antonio Sandoval has rendered and is now rendering the country, as well as during the time to which he refers as also during the six years he served

administering the prefecture of the second district, with a salary of fifteen hundred dollars, of which not one-half has been paid to him, the sum due him amounting to nine thousand dollars; and the statements in the petition being true, I do, in execution of the power in me vested by the laws, and also in consideration of all the premises, and as a just title acquired, make to him a grant of the land that he solicits, with all the dimensions and pasture lands he asks, that he may enjoy the same, in the name of the supreme government of the Mexican nation, and under my concession free and exempt from all taxation;" and that afterwards, on December 15, 1845, the said Sandoval was placed in juridical possession of the said tract of land, and that by reason of the said proceedings the said Sandoval became invested with a full and perfect title to the said tract of land, to himself and heirs and assigns; and that they, the said defendants, Whitney and Story, by reason of certain *mesne* conveyances of the said land, are now the lawful owners of the same. Whereas your petitioner charges the contrary thereof to be true, and that no lawful

6 grant was made to or title vested in the said Sandoval by reason of the said proceedings of the then governor of New Mexico; that the authority to make grants of the vacant lands in the said department was conferred upon the governor and the departmental assembly by the decree of the Mexican Congress of August 18, 1824, and the regulations of November 21, 1828, and that by the said decree and the said regulations the governor had only power to grant the vacant lands to individuals for the purpose of cultivation and inhabitancy; that he had no power to make grants of land because of private merit or public services, nor for the consideration of money due by the Government; that such power was, by Article XL of the decree of 1824, reserved to the supreme executive of the nation; and your petitioner further charges that the grant was unlawful in this respect; that Article XII of the said decree of 1824 provides that "there shall not be granted to an individual, with the right of ownership, more than one square league of irrigable land, four superficial ones of land dependent on the seasons, and six superficial ones for the purpose of rearing cattle;" that eleven square leagues are equivalent to about forty-eight thousand acres, and that on November 28, 1845, prior to the date of this alleged grant to the said Sandoval, the then governor of the department to the said Sandoval, which said grant is commonly called the Bosque del Apache, and that the said Sandoval was, in the month of December, 1848, duly placed in the juridical possession of the same; which said grant was duly confirmed to the said Sandoval by the United States of America by the act of Congress entitled "An act to confirm said private land claims in the Territory of New Mexico," approved June 21, 1860; and the same having been duly surveyed to include 60,117 acres was patented to the said Sandoval and his legal representatives in the year 1877; and that by reason of said grant of the Bosque del Apache to the said Sandoval he, the said Sandoval, had received the full quantity of the vacant land of the department which the governor was, by the said decree and regulations, empowered to grant to him as an individual; and that the subsequent grant of land to the said Sandoval, under which the said defendants, Whitney and Story, claim title, was illegal and void.

And your petitioner further shows that the said defendants, Whitney and Story, at other times allege and pretend that the said grant to the said

Sandoval was a lawful grant, and that the said        was lawfully made by the then governor of New Mexico; that some time after the adoption, in 1836, of the central form of government by the Mexican nation the then President of Mexico conferred by decree, or otherwise, upon the governor of the department of New Mexico the power and authority to grant the public lands in the said department in such manner and quantity as he deemed best without regard to the limitations and restrictions embodied in the said decree of August, 1824, and the regulations of November 21, 1828; whereas your petitioner charges the contrary thereof to be true, and alleges that no special power as aforesaid was, as aforesaid, conferred upon the said governor by the supreme authority of Mexico, and that if such power was conferred as aforesaid it was unlawfully exercised by the said governor in making the said grants to the said Sandoval without the concurrence and assent of the departmental assembly.

And your petitioner further shows that the said defendants, Whitney and Story, at other times allege and pretend that the said grant to the said Sandoval was a lawful grant, and that power was conferred upon the governor to make the same by the laws of the Republic of Mexico of 1843, commonly called the Bases Organicas; whereas your petitioner charges the contrary thereof to be true, and that the said laws conferred no new powers upon the governor of the department respecting the granting of the public domain; that it specifically provided, by title 7 of the said laws, which treats of the powers of the departmental assembly, that they shall have power to decree what is useful and conformable respecting the acquisition, alienation, and exchanges of property that may belong to the community and the department; and that with regard to the alienation of the public lands the existing laws shall prevail; and that the existing laws at that time with respect to the granting of the public domain were the said decree of August, 1824, and the regulations of November 21, 1828.

And your petitioner further shows that the said defendants, Whitney and Story, at other times allege and pretend that although the said tract of land so as aforesaid granted to the said Sandoval formed a part of the tract of land so as aforesaid granted to the said Baca, yet that the said land granted to the said Baca had been abandoned by him, and that the same had, by reason of such abandonment, become vacant land and had reverted to the Mexican Government and had become a part of the public domain of the Republic of Mexico; whereas your petitioner charges the contrary thereof to be true, and that the said Baca prior to and at the time the said pretended grant of land was made to the said Sandoval was in full and lawful possession of all the said tract of land so as aforesaid granted to him, and that the same and no part thereof had been abandoned by him; and your petitioner further alleges that if the said tract of land had been abandoned by the said Baca as above alleged by the said defendants, Whitney and Story, it would not because thereof reverted the title to the said tract of land as a part of the public domain in the Republic of Mexico.

And your petitioner further shows that the said defendants Whitney and Story at other times allege and pretend that the said land having been, as they allege, abandoned by the said Baca, that the said Sandoval denounced the same to the governor and departmental assembly of the said department of New Mexico as abandoned and vacant land, and that there-

upon the said Sandoval petitioned to the then governor of the said department for a new grant to him of a portion of the tract of land so as aforesaid granted to the said Baca and by him abandoned; and that thereupon the said governor and the said departmental assembly adjudged the said land so as aforesaid granted to the said Baca to have been abandoned by him, and to be vacant land, and that thereupon the said governor of the said department granted to the said Sandoval the tract of land so as aforesaid petitioned by him. Whereas your petitioner charges the contrary thereof to be true, and that the said grant was not, as aforesaid, denounced by the said Sandoval as abandoned and vacant land, and, because thereof, granted to the said Sandoval; and further charges that no civil or judicial proceeding of any nature has been had by the governor and departmental assembly, or other lawfully constituted authority of New Mexico, whereby the said Baca has been adjudged to have forfeited his title to and possession of the said tract of land; and your petitioner further charges that no lawful grant of the said tract of land so as aforesaid petitioned for by the said Sandoval was at any time made to the said Sandoval by the governor of the department of New Mexico.

And your petitioner further shows that the said defendants Whitney and Story at other times allege and pretend that Facundo Melgares, the then governor of the province of New Mexico, had no lawful power or authority to make grants of the vacant lands of the said province, and alleges that such power was vested in the intendent of the intendancy of Durango, or in the commandant general of the provincias internas; whereas your petitioner charges the contrary thereof to be true and alleges that by the decree of the Spanish Government of December 4, 1786, the then province of New Mexico became a part of the intendancy of the department of Durango, and was in some respects subject to the authority of such intendent; that subsequently, and by the decrees of November 23 and 24, 1792, the said province of New Mexico became one of the provinces of the comandancia general of the provincias internas, and alone subject to the control of the commandant general of the said provinces; and that subsequently, by virtue of the decree of 1804, the said provinces

9 became one of the provinces of Mexico and alone subject to the authority of the viceroy; that the said Facundo Melgares was duly appointed by the then viceroy of Mexico the governor of said province of New Mexico, and exercised the powers and performed the duties of said office of governor, alone subject to the authority of the said viceroy, and was in no manner subject to, or under the authority of, the intendent of Durango or the commandant general of the provincias internas; and that as such governor he lawfully granted in full ownership the said tract of land to the said Baca, and that such grant was legal and valid and invested the said Baca with title in full ownership without the subsequent approval of the said grant by either the intendent of Durango or the commandant general of the provincias internas, or of the viceroy of Mexico.

And your petitioner further shows that the said grant of land is located in the county of Valencia, in the Territory of New Mexico; that the same has not been surveyed; that the boundaries thereof are, as stated in the paper of juridical possession, on the south the Crow Spring (Ojo del Cuervo) following its range (cordillera) to the Chico Springs (Ojo del Chico); on the east to the Pedernal Hills (Cerro del Pedernal); on the north the

Buffalo Springs (Ojo del Cibolo); on the west the summit of the mountain (altura de la sierra) as will more fully appear by the map of the said grant or tract of land hereunto annexed and made of your petitioner's petition.

And your petitioner further shows that pursuant to the statute of the United States in such case made and provided the said grant so as aforesaid made to the said Baca, was, some time in the year 1878, presented for confirmation to the surveyor-general of New Mexico, and that the same was by the said surveyor-general disallowed and rejected, and by him transmitted to the Congress of the United States for its action thereon, but that so far as your petitioner is informed the said Congress has taken no action in regard to the said grant claimed. And your petitioner further shows that at the time of the making of the said grants to the said Baca, he became seized of the same in full property and that the said grant was a perfect grant, and that he and his legal representatives were so seized when the Territory of New Mexico was, in 1848, ceded to the United States of America by the Republic of Mexico, and with a fee simple title to the same is now in your petitioner and in the other heirs of Manuel Antonio Otero and Miguel Antonio Otero, as the legal representatives of the said Baca.

Your petitioner therefore prays that the validity of the title to the said grant so as aforesaid made to the said Baca and the rights of your petitioner and the other heirs as aforesaid thereto may be inquired into and determined by this honorable court, and that the said tract of land so  
10 as aforesaid granted to the said Baca, with the exceptions of the said tracts so as aforesaid granted to the said towns of Manzano, Tajique, Torreon, may be confirmed to the said Bartolome Baca, his heirs, and legal representatives, and that your petitioner may have such other and further relief as may be agreeable to equity and good conscience.

Your petitioners will ever pray, &c.

JAMES W. VROOM &

PETER L. VAN DER VEER,

*Sols. of the Petitioners.*

J. B. O'BRYAN, *of Counsel.*

II UNITED STATES OF AMERICA,

*Territory of New Mexico as:*

Peter L. Van der Veer, being duly sworn according to law, on his oath says that he is one of the solicitors for the petitioner herein; that the allegations in the above bill are true to the best of his knowledge and belief, and that the reason why this oath is made be deponent and not by the petitioner herein is because the said petitioner is not now in the county of Santa Fe and can not be conveniently reached for the purpose of making this oath.

PETER L. VAN DER VEER.

Subscribed and sworn to before me this 4th day of January, A. D. 1893.

JAMES H. PURDY,

*Notary Public, Santa Fe County, New Mexico.*

Answer under oath to this petition is waived.

P. L. VAN DER VEER.

JAMES W. VROOM.



12 And be it further remembered that afterwards, to wit, on the 26th day December, A. D. 1894, a stipulation was filed in the said cause, in the office of said clerk, which said stipulation is in the words and figures, to wit :

13 United States of America, Court of Private Land Claims, district of New Mexico.

ELDOISA L. BERGERE ET AL. }  
vs. } No. 58.  
 THE UNITED STATES.

*Stipulation.*

It is hereby stipulated and agreed that in the above-entitled cause the translation made by Mr. Clarence Key of the muniments of title shall be taken and considered as a correct translation thereof.

T. B. CATRON,  
*Attorney for Plaintiffs.*  
 MATT. G. REYNOLDS,  
*U. S. Attorney.*

14 And be it remembered that afterwards, to wit, on the 26th day of December, A. D. 1894, a transcript and translation of the original papers were filed in said cause, in the office of said clerk, in lieu of papers referred to in stenographer's notes as "translation of the original paper" and as "paper" marked No. 2, file 123, recorded on pages 651 to 653 of vol. 6, private land claim records," which said transcript and translation are in the words and figures following, to wit :

15 To the ACTING GOVERNOR :

Don Bartolome Baca, captain of the volunteer militia company of cavalry of the villa of Alburquerque, residing in the jurisdiction of Tome, before you with the greatest respect and subordination, as by law required, represents : That he has a number of sheep, horned cattle, and horses, without legitimate property on which to keep them together under shepherds, cattle herders, and horse herders, to take care of them and secure their safety, they now roving over different places exposed to all the contingencies arising from their being scattered. There being vacant on *on* the other side of the Abó Mountain a tract called the Torreón, and which extends, on the north to the Monte del Cibolo ; on the south to the Ojo del Cuervo ; on the east to the springs called the Estancia Springs ; on the west to the said Abó Mountain ; he prays you to be pleased to grant the same in real possession, in the exercise of the powers upon you conferred by His Majesty, in order to establish thereon a permanent ranch or hacienda, which he engages to occupy with his stock, sustaining the same with armed servants, who may defend it against the incursions of the enemy without abandoning it ; and he will also, if possible, open lands for cultivation, whether irrigable or dependent upon the seasons, for the advancement of agriculture, and although the water sources it contains are small and uncertain, he proposes to improve them with reservoirs and



other appliances which will secure every advantage possible; and he affirms that it has at present no owner, and that it never has had any known owner.

Wherefore, he prays you to be pleased to grant this his petition in conformity with law, and to direct the royal judge of his district to give him legal possession, with the proper documents and other formalities which are required, whereby he will receive favor, grace, and justice. I swear that I do not act in bad faith, and in that which is necessary, &c.

San Fernando, February 4, 1819.

BARTOLOME BACA. [RUBRIC.]

SANTA FE, *July 2, 1819.*

As he asks it according to law, and I understanding that no injury results to any third party, but, on the contrary, increase of stock raising and agriculture under the conditions asked.

Don José Garcia de la Mora will proceed to give the possession, designating limits and doing what is proper, which being concluded he will transmit the expediente to this superior office, so that if it be approved the proper testimonio may be ordered to be given to the petitioner.

MELGARES. [RUBRIC.]

16 In execution of the decree of July 2, 1819, I, José Garcia de la Mora, the judge commissioned by Lieutenant-Colonel Facundo Melgares, governor of the province of New Mexico, proceeded in company with captain of volunteer militia, Bartolome Baca, who by his merits and conduct in the service of both majesties, as has been proved by the offices which have been conferred upon him of alcalde mayor, and in other services in the field, the governors always appointing him commander of campaigns and scouting parties, which he always led with honor and valor, and in addition to all this he has always surpassed others in voluntary contributions, setting a good example to his inferiors. Wherefore, in reward of all these merits and services I have proceeded in his company to examine the tract he applies for, and knowing that it is wild land, and that no injury results to any third party, I have placed him in possession in the name of the King (whom may God preserve), and I took him by the hand and led him over the whole tract, he shouting and plucking up grass and throwing stones in the name of the King, saying, "Long live our beloved monarch, Don Fernando VII, whom God may preserve," with hurrahs and shouts, and I shed tears of delight at his acclamations; and I designated to him for his boundaries: On the south, the Ojo del Cuervo, following its line to the Ojo del Chico; on the east, the Cerro del Pedernal; on the north, the Ojo del Cibolo; on the west, the Altura de la Sierra (summit of the mountain range); the said gentleman being satisfied and grateful to the said governor for the benefit conferred upon him, binding himself to increase by his intelligence the limited waters which have been donated to him in order that his herds may be maintained, to which he is bound, transmitting the whole for your approval, he will satisfy the fees which may be charged to him.

Wherefore, I transmit this to the superior authority in order that it being examined by you, you may decide as you may deem just.

San Fernando, September 12, 1819. To which I certify with my two assisting witnesses.

JOSÉ GARCIA DE LA MORA. [RUBRIC.]

Assisting witness :

JOSÉ ANDRÉS CALLER. [RUBRIC.]

Assisting witness :

FRANCO. GALIZ. [RUBRIC.]

[Torn] the boundaries by [torn].

[RUBRIC.]

[Torn] ELGARES.

17 Sof. GOBERNADOR YNTO. :

D. Bartolome Baca, capitan de la compa. de milicias voluntarias de cavalleria de la villa de Alburquerque, avecindade en la jurisdiccion de Tome, ante Vmd. con el mayor respecto y subordinacion que en derecho se requiere, hace presente que tiene algun numero de ganados lanares, ganado bacuno y cavalladas sin tener propiedad lexitima para ponerlos reunidos vajo de pastores, vaqueros y caballerangos que los custodien, y aseguren su existencia manteniendose ambulantes por diferentes parages expuestas á todas las contingencias que acarrea lo disperso de ellos; hallandose realengo en el otro lado de la sierra de Abó un sitio que llaman el Torreon, y comprehende por el norte hasta el Monte del Cibolo, por el sur hasta el Ojo del Cuerdo, por el oriente hasta los ojos del agua que llamande la E-tancia, y por el poniente hasta la citada Sierra de Abó; suplica á Vmd. se sirva sederselo por poccion real en uso de las facultades que por S. M. le son conferidas, para formar en el un rancho ó hacienda perpetua que protesta ocupar con sus bienes, sosteniendolo con meses sirvientes y armados que lo defiendan de imbaciones de los enemigos sin desampararlo, como tambien si le fuese posible habrira tierras de lavor, bien sean de riego ó temporales en propagacion de la agricultura, pues aunque los aguages que contiene son esteriles y cortos, se somete á havonarlos con tanques y otras providencias que les den toda la fecundidad que se pueda; y asegura no tener dueño ninguno en la presente ni se le han conocido nunca por lo que A. V. suplica se sirva aseder á esta su solicitud conforme á derecho, mandando al juez real de su partido le de posesion legitima con las correspondientes escrituras y demas formalidades que se requieren, en que recibira merced, gracia y justicia, juro no ser de malicia y lo necesario, &c.

San Fernando, 4 de febrero 1819.

BARTOLOME BACA. [RÚBRICA.]

STA. FE, julio 2 de 1819.

Como lo pide arreglado á derecho y en concepto de qe. no resulta perjuicio de tercero antes vien haumento á las crias y lavores vajo las condiciones que se pide.

Dn. José Garcia de la Mora pasara á dar la posesion, señalando limites y obrando como corresponde lo qe. concludo remitira el espedte. á esta superioridad pa. qe. si se aprueba se mande dar el testimonio correspondte. al suplicante.

MELGARES. [RÚBRICA.]

18

En cumppto. al decreto de julio de mil ochocientos diez y nueve, yo, el juez comisionado, Don José García de la Mora, por el sor. te. coronel y govor. de la prova. del Nuevo Mexico., Dn. Facundo Melgares, pase en compa. del capn. de milicias boluntarias, Dn. Bartolome Baca, quien por sus meritos y conducta al servicio de ambas magestades como se ha provado, en los empleos que se le han dado de alcalde mayor, y otros servicios de campo recomendandole siempre los señores gobernadores el mando de comandante de armas, en campañas y correderias lo qe. siempre ha desempeñado con honrrades, y valor y á mas de todo esto en los donativos boluntarios siempre se ha aventajado mas que otros dando el buen exemplo á sus subditos; por tanto en premio de todos estos meritos, y servicios e pasado en su compa. á reconocer el citio que pide y conosiendo que esta yermo y sin perjuicio de tersero lo he puesto en posesion, á nombre del Rey (Q. D. G.) y lo coji de la mano y lo pasie en todo el citio, dando voses, y arrancando zacates y tirando piedras, á nombre del Rey diciendo que viva nro. amado monarca, el Sor. Dn. Fernando Septimo (Q. D. G.) á gritos y voses que del gusto de sus boses derrame lagrimas y le señale por sus linderos por el sur el Ojo del Cuerbo corriendo su cordillera al Ojo del Chico, por el oriente el Zerro del Pedernal, por el norte el Ojo del Cibolo, por el poniente la Altura de la Zierra, quedando dho. sor. convenido y agradecido de dho. gefe por el veneficio que se le ha hecho, obligandose á poner en avmento con su ynteligencia las cortas, aguas qe. se le han donado para que puedan susistir sus revaños á lo que queda obligado entregando todo para aprovacion de V. dara cumplimiento á los derechos qe. se le ympongan. Por tanto hago remision á la superioridad para qe. vista por V. determine lo que estime por justo.

San Fernando, doce de sepre. de mil ochocientos diez y nueve años. De qe. doy fee, con los dos de mi asistencia.

JOSÉ GARCIA DE LA MORA. [RÚBRICA.]

De assa.:

JOSÉ ANDRES CALLER. [RÚBRICA.]

De asia.:

FRANCO. GALIZ. [RÚBRICA.]

[Roto.] de los limites por [Roto].

[RÚBRICA.]

[Roto.] ELGARES.

19 UNITED STATES OF AMERICA,

*Territory of New Mexico, county of Santa Fe:*

Clarence Key, being first duly sworn, upon his oath, says: That he is fifty-nine years of age and is a resident of this city *if* Santa Fe, in the Territory of New Mexico; that he has been acquainted with the Spanish language since he was fifteen years of age; that he has resided in the Republics of Peru and Mexico about eight years, and in the city of Havana, Island of Cuba, for five years; was French and Spanish translator in the General Land Office for about four years, and afterwards translator in the office of the United States surveyor-general of New Mexico for about six months, and that since 1879 up to the present time he has devoted himself exclusively to the study and translation of Spanish land law, and the translation of public documents executed in the Republic of Mexico and in the Territory of New

Mexico, in the Spanish language, relating to land titles; that he is thoroughly conversant with the Spanish language and its technical terms and expressions used in connection with land titles and grants in the Territory of New Mexico and in the Republic of Mexico; that he has made a careful translation of the grant papers in the cause of Eloisa L. de Bergere et al. vs. The United States, and that the foregoing is such translation and is a true and correct translation of said original grant papers on file in the office of the United States surveyor-general of the Territory of New Mexico, and which were introduced in evidence in the said cause before mentioned on the trial of said cause in the United States Court of Private Land Claims.

[SEAL.]

CLARENCE KEY.

TERRITORY OF NEW MEXICO,

*County of Santa Fe:*

Sworn to and subscribed before me this 26th day of December, 1894.

JAMES H. REEDER,

*C'k C't Pr't L'd Claims.*

By IRENEO L. CHAVES,

*D'p'ty.*

20 And be it further remembered that afterwards, to wit, on the ninth day of January, A. D. 1893, a map was filed by plaintiffs in the said cause, which said map is in the words and figures following to wit:

(Map of the grant.)

22 And be it further remembered that afterwards, to wit, on the 14th day of January, A. D. 1893, a summons was issued in the said cause from the office of said clerk, which said summons is in the words and figures following, to wit:

23 In the U. S. Court of Private Land Claims.

UNITED STATES OF AMERICA,

*District of New Mexico, ss:*

ELOISA L. BERGERE ET AL., PLAINTIFF, }

*versus*

THE UNITED STATES OF AMERICA, DEFENDANT. }

Petition filed in the clerk's office, this      day of      , A. D. 189      .

The President of the United States of America, to Franklin H. Story, attorney for the United States before the Court of Private Land Claims, greeting:

You are hereby notified that an action has been brought in said court by Eloisa L. Bergere et al., plaintiff, against you as defendant, under the provisions of the act of the Congress of the United States, entitled "An act to establish a court of private land claims, and to provide for the settlement of private land claims in certain States and Territories,"

FOLDOUT(S) IS/ARE TOO LARGE TO BE FILMED

approved March 3d, 1891, and that a copy of the petition of said plaintiff is herewith attached and served upon you, and that you are required to appear and plead, demur or answer to the petition filed in said action, in said court within thirty days from the date of service of this summons upon you; and if you fail to do so the said plaintiff will take default according to the provisions of the aforesaid act.

Witness the Honorable Joseph R. Reed, chief justice of the Court of Private Land Claims, and the seal of the said court, at the city of Santa Fe, in said district, this 14th day of January, A. D. 1892, and of the Independence of the United States the 117 year.

[SEAL.]

JAMES H. REEDER,  
*Clerk.*

By IRENEO L. CHAVES,  
*Deputy Clerk.*

24 And be it further remembered tha' afterwards, to wit, on the 14th day of January, A. D. 1893, a summons was issued in the said cause in the office of said clerk, which said summons is in the words and figures following, to wit:

25 In the U. S. Court of Private Land Claims.

UNITED STATES OF AMERICA,  
*District of New Mexico, ss:*

ELOISA L. BERGERE ET AL., PLAINTIFF, }  
*versus*  
THE UNITED STATES, DEFENDANT. }

Petition filed in the clerk's office this      day of      , A. D. 189      .

The President of the United States of America to Joel P. Whitney, greeting:

You, and each of you, are hereby notified that an action has been brought in said court by Eloisa L. Bergere et al., plaintiff, against you as defendant, under the provisions of the act of the Congress of the United States entitled "An act to establish a court of private land claims and to provide for the settlement of private land claims in certain States and Territories," approved March 3d, 1891, and that a copy of the petition of said plaintiff is herewith attached and served upon you, and that you are required to appear and plead, demur, or answer to the petition filed in said action in said court within thirty days from the date of service of this summons upon you; and if you fail so to do the said plaintiff will take default according to the provisions of the aforesaid act.

Witness the Honorable Joseph R. Reed, chief justice of the Court of Private Land Claims, and the seal of the said court, at the city of Santa Fe, in said district, this 14th day of January, A. D. 1892, and of the independence of the United States the 117th year.

JAMES H. REEDER,  
*Clerk.*

By IRENEO L. CHAVES,  
*Deputy Clerk.*

26 And be it further remembered that afterwards, to wit, on the 14th day of January, A. D. 1893, a summons was issued in the said cause from the office of the said clerk, which said summons is in the words and figures following, to wit:

27 In the U. S. Court of Private Land Claims.

UNITED STATES OF AMERICA,  
*District of New Mexico, ss:*

ELOISA L. BERGERE ET AL., PLAINTIFF, }  
*versus* }  
THE UNITED STATES ET AL., DEFENDANT. }

Petition filed in the clerk's office this 9th day of January, A. D. 1893.

The President of the United States of America to Matt. G. Reynolds, esq., U. S. atty. for the Court of Private Land Claims, greeting:

You, and each of you, are hereby notified that an action has been brought in said court by Eloisa L. Bergere et al., plaintiff, against you as defendant, under the provisions of the act of the Congress of the United States entitled "An act to establish a Court of Private Land Claims and to provide for the settlement of private land claims in certain States and Territories," approved March 3d, 1891, and that a copy of the petition of said plaintiff is herewith attached and served upon you, and that you are required to appear and plead, demur, or answer to the petition filed in said action in said court within thirty days from the date of service of this summons upon you; and if you fail so to do the said plaintiff will take default according to the provisions of the aforesaid act.

Witness the Honorable Joseph R. Reed, chief justice of the Court of Private Land Claims, and the seal of the said court, at the city of Santa Fe, in said district, this 14th day of January, A. D. 1893, and of the independence of the United States the year.

[SEAL.]

JAMES H. REEDER,  
*Clerk.*

By IRENEO L. CHAVES,  
*Deputy Clerk.*

28 And be it further remembered that afterwards, to wit, on the 25th day of January, A. D. 1893, a return of summons was filed in the said cause in the office of said clerk, which said return of summons is in the words and figures following, to wit:

29 *Proof of service.*

UNITED STATES OF AMERICA,  
*District of Mass., ss:*

BOSTON, January 25th, A. D. 1893.

I hereby certify that I received the within writ on the 25th day of January, A. D. 1893, and that I have personally served the same upon the said defendant's attorney, William J. Downing, who is authorized to



accept service of the within precept, by delivering to him at Boston, in said district, personally, a true copy of the within writ, and copy of transcript at the time and place as follows: As to Joel P. Whitney, 70 Kelly st., at Boston, county of Suffolk, on the 25th day of January, A. D. 1893.

WILLIAM W. DOHERTY,  
U. S. Marshal, Mass. Dist.  
Per F. D. GALLUPE, Deputy.

BOSTON, Jan. 25, 1893.

I, the undersigned, hereby certify that I am authorized by the above-named Joel P. Whitney to accept service of this writ.

WILLIAM J. DOWNING.

This writ, therefore, returned , as the law directs, this 25th day of January, A. D. 1893.

30 And be it remembered that afterwards, to wit, on the 25th day of January, A. D. 1893, a return of summons was filed in the said cause in the office of said clerk, which said return of summons is in the words and figures following, to wit:

31 *Proof of service.*

UNITED STATES OF AMERICA,  
*District of New Mexico, ss:*

BOSTON, January 25th, A. D. 1895.

I hereby certify that I received the within writ on the 25th day of January, A. D. 1893, and that I have personally served the same upon the said defendant's attorney, William J. Downing, who is authorized to accept service of the within precept, by delivering to him at Boston, in said district, personally, a true copy of the within writ and copy of transcript, at the time and place as follows: As to Franklin H. Story, at Boston, county of Suffolk, on the 25th day of January, A. D. 1893.

WILLIAM W. DOHERTY,  
U. S. Marshal, Mass. Dist.  
Per F. D. GALLUPE,  
Deputy.

BOSTON, Jan. 25th, 1893.

I, the undersigned, hereby certify that I am authorized by the above-named Franklin H. Story to accept service of this writ.

WILLIAM J. DOWNING.

This writ, therefore, returned , as the law directs, this 25th day of January, A. D. 1893.

32 And be it further remembered that afterwards, to wit, on the 2d day of February, A. D. 1893, a return of summons was filed in

the said cause in the office of said clerk, which said return of summons is in the words and figures following, to wit:

33

*Proof of service.*

UNITED STATES OF AMERICA,

*District of New Mexico, ss:*

SANTA FÉ, Feb. 2, A. D. 1893.

I hereby certify that I received the within writ on the 14 day of January, A. D. 1893, and that I have personally served the same upon the said defendant, Matt. G. Reynolds, U. S. attorney for the Court of Private Land Claims, by delivering to him personally a true copy of the within writ, at the time and place as follows: As to at , County of on the day of , A. D. 189 . As to .

I hereby acknowledge service of summons in the within cause this Jan'y 23, 1893.

MATT. G. REYNOLDS,

*U. S. Atty.*

This writ therefore returned by me as the law directs this 2nd day of February, A. D. 1893.

TRINIDAD ROMERO,

*Marshal.*

By SERAPIO ROMERO,

*Deputy Marshal.*

Marshal's fees:

Service 1 defendants, at \$4 .....	\$4. <sup>00</sup> / <sub>100</sub>
Mileage, miles, at 6c. going only.....	

Total .....	\$4. 00
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34 And be it further remembered that afterwards, to wit, on the twenty-third day of June, A. D. 1893, the answer of the United States was filed in the said cause in the office of the said clerk, which said answer is in the words and figures following, to wit:

35 In the Court of Private Land Claims, Santa Fe district, July term, 1893.

UNITED STATES OF AMERICA, ss:

ELOISA L. BERGERE ET AL. }

*vs.*

THE UNITED STATES. }

No. 58.

*Answer.*

Comes now the United States, by Matt. G. Reynolds, its attorney, and for its separate answer to plaintiffs' petition filed in said cause, and answering to so much thereof and such parts thereof as it is necessary, says:

It has no knowledge or information sufficient to enable it to form a belief as to whether or not in the year 1819 the governor of the province of New Mexico granted to one Bartolomé Baca any land situate now in the county of Valencia, Territory of New Mexico, or not.

Nor as to whether the land described in plaintiffs' petition was ever attempted to be granted by the governor of said Territory in the year 1819 or not, but says that if said attempt was made it was without warrant or authority of law, and that the same was never severed from the public domain by anyone authorized thereto.

Further answering it says if anyone pretending to act under and by virtue of the authority of the governor of New Mexico attempted to put said Baca, or anyone for him, into the possession of the property sued for in this case he did so without authority and in excess of his powers, if any he had, and in violation of and in fraud of the commission in that behalf, if any he had.

Further answering it says that if said Baca ever had possession of said property, claiming it under and by virtue of said alleged grant, that he abandoned the same and the same remained vacant and abandoned for many years prior to the acquisition of this Territory by the United States, and that at the time the United States acquired sovereignty over this Territory said property was vacant, uninhabited, uncultivated, unclaimed, and abandoned, and passed to the United States as public domain.

36 As to whether or not these plaintiffs have or possess what are alleged and claimed to be the original title papers it has no knowledge or information and calls for strict proof. That at the time of acquiring this country it was not advised by the records or archives thereof that any individual had any right to a claim in, to, or over said property.

Further answering it says that *it says that* if, as alleged in said petition, one Melgares attempted to grant said land to said Baca, the same was without warrant or authority of law and void, and it says it has no knowledge or information sufficient to enable it to form a belief as to whether, at said alleged time, Melgares was governor of said province or was clothed with the authority to dispose of the public domain of the Republic of Mexico. It calls for strict proof in that behalf.

It denies that the conditions imposed by law as conditions precedent to acquiring the legal title to the property within this province, and also the conditions imposed by the terms of said alleged grant, have ever been complied with and calls for strict proof of the same.

Further answering it says that there is now asserted in this court a claim for the Nerio Antonio Montoya or Ojo de en Medio grant in the name of J. Francisco Chaves against the United States, which it is informed and believes and so charges the fact to be itself conflicted with the claim made by these plaintiffs, and therefore interested in defeating the same, but it does not admit that said claim is itself of any force or effect as against the United States.

Further answering it says that said claim is not one which, under the laws of nations, the treaty of cession or the principles of equity by which this court will be governed in determining the same it is bound to respect or recognize.

All allegations not hereinbefore answered are denied, and it is demanded that plaintiffs be put to their proof of all the allegations in said petition; as provided they shall be by the act of Congress approved March 3, 1891, under which this court assumes jurisdiction of this controversy, and that they shall be put to their proof as to their pretended interest in said alleged grant.

Now, having fully answered, it prays the court that a decree may be entered rejecting the claim for said alleged grant and dismissing the petition, and for such other orders as to the court may seem meet and proper and which it may be authorized to make in the premises.

Respectfully submitted.

MATT. G. REYNOLDS,  
U. S. Attorney.

37 And be it remembered that afterwards, to wit, on the 26th day of July, A. D. 1894, an abstract of title was filed by plaintiffs in the said cause in the office of said clerk, which said abstract of title is in the words and figures following, to wit:

38 Abstract of title of the Bartolome Baca grant.

ELOISE L. BERGERE ET AL. }  
vs. } No. 58.  
THE UNITED STATES.

1. Grant papers, Melgares, Spanish governor, to Bartolome Baca, of dates February 4th, 1819; July 2nd, 1819; September 12, 1819.

2. Bartolome Baca died intestate, leaving to survive him Manuela, Rita, Ana Maria, Lugarda.

3. Manuela married Miguel Sena; Rita married Gregorio Sanchez; Ana Maria married Juan Chavez; Lugarda married Jose Luna. All of the above heirs either deeded their interest as hereinafter set forth or died intestate, leaving to survive them the children, all of whose deeds are hereinafter set out.

4.

	Date.	Recorded.
1. Placido Robles to Miguel A. Otero.....	July 14, 1879.....	Book A—4, p. 243, in Valencia Co.
2. Jose Maria Sanchez y Baca to Manuel Antonio Otero.....	July 15th, 1878.....	Book A—4, p. 207, in Valencia Co.
3. Emilia Otero de Henriques and Charles H. Armijo to A. M. Bergere and wife and children.....	March 14, 1893.....	Book B—2, p. 216, in Valencia Co.
4. Juan Chavez y Baca and Juliana Castillo de Chavez to M. A. Otero.....	July 22, 1878.....	Book A—4, p. 205, in Valencia Co.
5. Placida Chavez y Baca to M. A. Otero.....	June 29, 1878.....	Book A—4, p. 211, in Valencia Co.
6. Jose Luna y Lugarda Baca de Luna to M. A. Otero.....	June 10, 1878.....	Book A—4, p. 213, in Valencia Co.
39 7. Bartolo Chavez y Baca y Maria Anta de Baca to M. A. Otero.....	May 24, 1878.....	Book A—4, p. 206, in Valencia Co.
8. Santiago Sanchez y Baca and Maria Perea de Sanchez to M. A. Otero.....	June 27, 1878.....	Book A—4, p. 210, in Valencia Co.
9. Mauricio Sanchez y Baca to M. A. Otero.....	June 27, 1878.....	Book A—4, p. 209, in Valencia Co.
10. Candelaria Baca to Miguel A. Otero.....	August 4, 1879.....	
11. Julian Sanchez y Teresa Sanchez y Sanchez to M. A. Otero.....	July 16, 1878.....	
12. Jesus Ma. Sena y Baca y Agapita Ortiz to M. A. Otero.....	July 17, 1878.....	Book A—4, p. 215, in Valencia Co.
13. Mucio Chavez and Carmel Vigil de Chavez to M. A. Otero.....	Feb. 14, 1899.....	

14. The petitioners in this suit are the surviving heirs and the grantees of the surviving heirs of Miguel A. and Manuel A. Otero.

40 And be it further remembered that afterwards, to wit, on the 27th day of August A. D. 1894, the same being the 14th day of the August term, 1894, the following further proceedings were had in the said cause, to wit :

ELOISA L. BERGERE ET AL., PLAINTIFFS,	} Bartolome Baca grant.
<i>vs.</i>	
THE UNITED STATES ET AL., DEFENDANT'.	No. 58.

The above-entitled cause having come on to be heard and the parties herein having announced themselves ready for trial, there appeared Matt. G. Reynolds, esq., U. S. attorney, for and on behalf of the said defendant, the United States, and J. D. O'Bryan, H. J. O'Bryan, J. W. Vroom, and T. B. Catron, esqs., appearing for the petitioners. The trial of the cause was proceeded with on the pleadings presented. Oral and documentary proof was introduced.

By leave of the court first had and obtained, the Government withdrew its answer and filed an amended answer in the cause. Upon motion of Mr. Vroom, of counsel for plaintiffs, the petitioners herein are hereby allowed to amend their original petition.

41 And be it further remembered that afterwards, to wit, on the 28th day of August A. D. 1894, the same being the 15th day of the August term, 1894, the following further proceedings were had in the said cause, to wit :

ELOISA L. BERGERE ET AL., PLAINTIFFS,	} Bartolome Baca grant.
<i>vs.</i>	
THE UNITED STATES ET AL., DEFENDANT'.	No. 58.

The court resumed the hearing of the above-entitled cause, all the attorneys in the case being present. Additional oral and documentary proof was introduced ; and the trial of the said cause not being concluded, the court adjourned until to-morrow at 10 o'clock a. m.

42 And be it further remembered that afterwards, to wit, on the 29th day of August, A. D. 1894 the same being the 16th day of the August term, 1894, the following further proceedings were had in the said cause, to wit :

ELOISA L. BERGERE ET AL., PLAINTIFFS,	} Bartolome Baca grant.
<i>vs.</i>	
THE UNITED STATES ET AL., DEFENDANT'.	No. 58.

All the attorneys in the above-entitled cause being present, the trial of the cause, and the argument in the cause, was postponed until some future day of the court.

43 And be it further remembered that afterwards, to wit, on the 30th day of August, A. D. 1894, the same being the 17th day of

the August term, 1894, the following further proceedings were had in the said cause, to wit :

ELOISA L. BERGERE ET AL., PLAINTIFFS,	} Bartolome Baca grant. No. 58.
<i>vs.</i>	
THE UNITED STATES ET AL., DEFENDANT.	

The above-entitled cause having been called for argument and the attorneys in the cause being present, the said cause was argued by Mr. O'Bryan for the plaintiffs, and by Matt. G. Reynolds, esq., U. S. attorney, for the said defendant, the United States ; Mr. Catron being granted leave by the court until some future day of the court to make his argument in the cause.

44 And be it further remembered, that afterwards, to wit, on the 3rd day of September, A. D. 1894, the same being the 20th day of the August term, 1894, the following further proceedings were had in the said cause, to wit :

ELOISA L. BERGERE ET AL., PLAINTIFFS,	} Bartolome Baca grant. No. 58.
<i>vs.</i>	
THE UNITED STATES ET AL., DEFENDANT.	

The above-entitled cause coming on to be further heard, all the attorneys in the case being present, T. B. Catron, esq., began and concluded his argument for and on behalf of the petitioners herein, after which the said cause was submitted, and the court, not being sufficiently advised in the premises, took the said cause under advisement.

45 The following is the oral and documentary proof introduced upon the trial of the cause :

46 In the Court of Private Land Claims, Santa Fe district, August term, 1894.

UNITED STATES OF AMERICA, *ss* :

ELOISA L. BERGERE, ET AL., CLAIMING "BARTOLOME	} No. 58.
Baca grant," plaintiff,	
<i>versus</i>	
THE UNITED STATES OF AMERICA, DEFENDANT.	

*Transcript of the trial.*

On August 27th, 1894, at the hour of two o'clock p. m. the above-entitled cause was called for trial, and the following proceedings were had therein :

Appearances : J. D. O'Brien, esq., H. J. O'Brien, esq., Jas. W. Vroom, esq., and T. B. Catron, esq., for the plaintiffs ; Matt. G. Reynolds, esq., U. S. attorney, and Summers Burkhart, esq., assistant U. S. attorney, for the defendant.

Mr. REYNOLDS. I desire the record to show the withdrawal of the original and formal answer and the filing of an amended answer.

Mr. O'BRIEN. It does not appear to have been filed as an amended answer.

Mr. REYNOLDS. It has been on file for a year.

47 BARTOLOME CHAVES Y BACA, of lawful age, produced to testify on the part of the plaintiff, being duly sworn upon his oath, testified as follows, in Spanish :

Direct examination by Mr. O'BRIEN :

Q. What is your name, age, and residence ?

A. My name is Bartolome Chaves y Baca ; residence, Belen, New Mexico ; sixty years of age.

Q. What relation, if any *any*, are you to Bartolome Baca ?

A. My grandfather.

Q. What relation was your father or mother to him ?

A. My mother was the daughter of Don Bartolome Baca.

Q. Did you ever know Bartolome Baca in his lifetime ?

A. No.

Q. Do you know in what year he became deceased ?

A. Yes, sir.

Q. Tell him to answer it.

A. In the year 1834.

Q. In what year were you born ?

A. In the year 1834, after the death of my grandfather, Don Bartolome Baca.

Q. Do you know where your parents were living at the time of your birth ?

A. Yes, sir.

Q. Where ?

A. In San Fernando.

Q. At that time do you know the house Bartolome Baca was living in ?

A. Yes, sir ; I am now living in the house in which Don Bartolome Baca lived.

Q. Well, was it contiguous to, near to, or distant from the house your father and mother lived in ?

A. About one hundred yards ; no more.

Q. Do you know how many sons Bartolome Baca had ?

A. Yes, sir.

Q. Did they survive him or die before him ?

A. One, Manuel Baca, died before ; Juan Baca, I do not know whether he died before or after ; he went to California.

Q. How long before the death of your grandfather did his one son die ?

48 A. I think that Manuel Baca died in the same year in which Don Bartolome Baca died.

Q. What did your father do in relation to the estate, if anything, or what connection had he with the estate of Bartolome Baca ?

A. He was administrator of the estate of Don Bartolome Baca.

Q. At that time one of the Baca boys had died and the other had gone to California, did I understand you to say ?

A. Yes, sir ; Juan Baca went to California.

Q. Do you know of any papers belonging to Bartolome Baca that came into the possession of your father, acting as administrator of your grandfather's estate ?

A. The papers of Don Bartolome Baca were in the possession of my father.



Q. How long ago did your father die?

A. I do not remember the year; it was about fifteen years ago.

Q. Well, how many children did he leave?

A. Three.

Q. Well, what became of them?

A. One died, two of us are living.

Q. Are the two that are living boys or girls?

A. Those who are living are males.

Q. Were you the oldest or youngest?

A. The younger of the two.

Q. Where were you living at the time of your father's death, you and your brother?

A. I am living near Tome.

Q. In whose house do you live?

A. I am living in my father's house and my mother's house.

Q. When did your mother die?

A. In the same year in which my father died; I do not remember the year.

Q. Were you all living together in the same house?

A. I and my father and my mother; yes, sir.

Q. What did you have to do with your father's and mother's estate, if anything?

A. I had it in my charge, because my father was very old and he lived with me.

Q. But subsequent to your father's death, what had you to do with the estate on your mother's death?

A. I then divided it among the children.

49 Q. By whose authority did you divide it? How did you come to act in the matter?

A. By no authority; I just divided it.

Q. Was you administrator of the estate, or not?

A. Yes, sir; I was.

Q. After his death, did his goods that remained, or this box of papers that belonged to your grandfather—what became of that?

A. I had it.

Q. Did you know its contents at the time you had it?

A. I did not know until later, when I was looking for some papers of my father's. I then found out what was in it.

Q. Upon what occasion was it you came to examine this box of your father, and what did you find there?

A. I was looking for some papers what belonged to my father; I found a part of the grant of a tract to Bartolome Baca.

Q. What did you do with it?

A. Then I took it to Don Manuel Antonio Otero.

Q. What, in consequence of that, did you and Otero do, if anything?

A. Then Don Manuel Otero said to me: "Let us search for the other part, and I will buy it from you and the other heirs."

Q. Well, did he make a search for the other part?

A. Then I searched and we found the other part; but there was one little piece missing, which we never found.

Q. Will you look at that paper [hands witness paper] and see whether you recognize that paper?

A. (Witness examines paper.) Yes, sir; this is the same.

Q. Is that the same paper now that was afterwards brought in the surveyor-general's office, do you know?

A. That is the same.

Q. Do you know how many children Bartolome Baca, the original grantee, had?

A. Yes, sir.

Q. How many, and give their names, boys and girls?

A. Juan Baca, Manuel Baca, Rita Baca, Manuela Baca, Maria Baca, Lugarda Baca and—

Q. How many in all?

A. Seven.

Q. After the death of your grandfather, do you know where they lived?

A. Yes, sir.

50 Q. Where, as near as you can remember?

A. At Torreon.

Q. Where is Torreon, with reference to this identical grant?

A. It is within the limits of the grant.

Q. How many of these children lived there, and for what length of time, do you know?

A. I do not remember exactly; Juan Baca and Manuel Baca lived at Torreon, and the others lived—some lived at San Fernando and in other places.

Q. Did your father and mother ever live upon the grant?

A. My father was.

Q. From what time to what time?

A. From the year 1857 until 1863; we lived at Torreon; I and my father and my mother also.

Q. What business did your father carry on?

A. Farmer.

Q. Did he have any herds or stock?

A. He had large numbers of stock.

Q. Where did he keep them?

A. On the estancia.

Q. Where is the estancia, with reference to this grant?

A. The estancia is within the grant.

Q. How many years, if years, did your father keep stock there?

A. He had them there from the year 1857 until 1863.

Q. How came you to go away with your stock?

A. On account of the severe drouth that year.

Q. Now, prior to the time that your father came there, you said that some of his, Baca's, other children lived at Torreon; did they have any stock of any kind or description?

A. The grandchildren of Manuel lived at Torreon.

Q. Did Juan and Manuel, when they lived on the grant, ever have cattle upon the grant; and if so, where?

Mr. REYNOLDS. I object to the form of the question, as it is leading.

No ruling.

No answer.

Q. Had your uncles that lived at Torreón any cattle; and if so, where were they?

A. They had them at the estancia.

Q. How long did they have cattle there, from what date to what date?

51 A. I do not know; I was not born when they lived there.

Q. During your boyhood, or at any time of your life prior to '57, do you know of their being there or not?

Mr. REYNOLDS. I object, as it is immaterial and because the occupation was subsequent to the treaty of 1848.

The CHIEF JUSTICE (Associate Justice Fuller). The answer to this question would not necessarily cover that period.

A. I understood that there had been stock there of Don Bartolome Baca.

Q. Do you know whether they had any of their own there, independent of that of their grandfather?

A. I believe they had, because they were living there at Torreón.

Q. At the time you first came to Torreón, how many families were living there?

A. Number lived there.

Q. How many, about, as near as you can give?

A. I came about the year 1857, and there were then about thirty families.

Q. Had you ever been there before you went there to live with your father and mother?

A. Yes; I had been there.

Q. How often before?

A. I had been there a number of times; many times I was there.

Q. With whom did you go?

A. I went there with a servant of my father; going by Palmyre we went to the Torreón.

Q. Were you ever there with your father before you went to live there permanently?

A. Yes, sir.

Q. Did you ever hear him say anything about his claims, or your mother being claimant of the grant; and if so, what?

Mr. REYNOLDS. I object, as it is incompetent as to the declarations of parties made in their own interest, and this paper will show whether Bartolome Baca was a claimant or not; the paper will show for itself.

Justice FULLER. Answer the question subject to your objection.

A. He said there was a grant belonging to the heirs of Don Bartolome Baca, but that he did not know where the grant was.

52 Q. What do you mean; do you mean where the grant was, or the evidence—the paper evidence of it—or of the land?

A. Of the land.

Q. Did you know the other people that lived there at the time and afterwards, on the alleged grant?

A. Yes; some of my cousins was living there at the time; some in Tajique, and others in Torreón.

Q. Did you know any other people not related to you that lived there?

A. Yes, sir.

Q. Now, among all these people that lived there, what was the general reputation of the ownership of this grant?

Mr. REYNOLDS. I object, as it is incompetent and immaterial—can't prove ownership that way.

Justice FULLER. We will take it subject to the objection.

A. That the grant of estancia belonged to Don Bartolome Baca.

Q. What did these people say, if anything, as to the boundaries, if anything?

Mr. REYNOLDS. I object to their proving the boundaries in this way; their title papers which they have produced here and set out in their petition show what the boundaries are; they have been offered in evidence here.

Justice FULLER. If the boundaries are fixed by the grant itself, parol evidence can not be given, except as to objects that are designated; we will allow the testimony with reference to objects, or their existence or location.

Mr. REYNOLDS. I object to the testimony of this witness or any other undertaking to define what the boundaries are in the act of possession.

A. That the boundaries of the land belonging to Don Bartolome Baca there were the Crow Springs, Ojo del Cuervo, towards the Ojo del Chico, thence to the Cerro del Pederal, from the Cerro del Pederal to the Ojo del Cevilleta, from the Ojo del Cevilleta to the summit of the mountain (montana), thence along the line of the summit of the mountain to  
53 opposite the Ojo del Cuervo.

Q. Did your father ever say anything to you about the boundaries or not?

Mr. REYNOLDS. Object to it, as it is hearsay evidence.

The CHIEF JUSTICE. Proceed subject to the objection.

A. Yes, sir; he said that those were the boundaries, those mentioned there.

Q. When did your father say it; was it any time you and he were together on the grant or not?

Mr. REYNOLDS. Object to the question, as the witness is not one that needs to be led.

The CHIEF JUSTICE. He may answer the question.

A. It was not on the grant; it was when we were living at Tome.

Q. How far is Tome from Torreon?

A. About 30 or 35 miles.

Q. Have you ever seen a printed or drawn map of the boundaries of this grant; I mean, examined it?

A. No; I have said that I had seen a map of that; before seeing the map I had been over the boundaries of the land.

Q. Well, did you examine the map?

A. I did not examine it well; I saw it cursorily.

Q. Will you make a map on that paper at the first-menti'ned place; will you begin at El Torreon and go towards the east, marking at each point that you have mentioned? In what point of the compass is Torreon in respect to the grant?

A. On the east.

Q. Well, go ahead and draw a map from the description you have given of the boundaries.

A. (Witness drawn some lines on paper.)

Q. Now, if you will connect the points; have you got all the points down that you have mentioned? If you will connect those together and enclose them in lines, please.

A. Yes, sir.

Q. Write the names of the different places you have mentioned.

A. (Witness writes.)

54 Q. Well, within this is the Estancia Springs; what is the estancia; what do you mean by the word?

A. The principal rancho, where Don Bartolome Baca had his place.

Q. What is Estancia besides being a ranch?

A. Cattle ranch, a stock ranch.

Q. Why was it called Estancia?

A. I do not know; there is another Estancia.

Q. How far is it from Estancia to the Pedernal; have you ever gone from Estancia to the Pedernal?

A. Yes, sir.

Q. How long did it take you to go there?

A. Half a day or a little more.

Q. Were you driving or how?

A. I went with wagons.

Q. Well, what were the animals that were drawing the wagon?

A. Oxen.

Q. It took you a day to get there?

A. Somewhat more.

Q. Which way did the waters flow from the Estancia Springs—towards the Pedernal or towards the other mountain?

A. Towards the Pedernal.

Q. Is there any water flowing westwards from the Pedernal Mountain towards the Estancia Springs?

A. From Estancia, no.

Q. Well, now, when you first saw Torreone, you say there were about thirty families living there then?

A. I went there a good many times after Don Bartolome Baca died, and there were a good many families there.

Q. Did you notice what amount of acequias for the land they had under cultivation?

A. There was one very long ditch there.

Q. How long do you suppose?

A. About four miles.

Q. Was that all the ditch, or were there laterals?

A. There were two; this ditch was come from within the cañon—the large one.

Q. And where did the other one come from?

A. The two, for there were two, run from the Torreone, where there was a spring; one run on one side of the arroyo, and the other on the other side.

55 Q. Well, was this spring in the town proper?

A. Within the settlement.

Q. Was there any land under cultivation there?

A. They irrigated gardens with it and little pieces of land; water was not much, not abundant.

Q. Did they have any fields or raise corn or anything ?

A. Yes, they had.

Q. Where were those fields ?

A. They were on both sides of the old ditch, the large one.

Q. Were these fields temporals, or were they irrigated from the ditch ?

A. They were irrigated, but when there was no water they were temporals.

Q. Are you able to judge how many acres there were under cultivation ?

A. No, sir, I can not.

Q. How much was the land that was cultivated and under cultivation ?

A. I do not know, of acres.

Q. How many varas long and how many varas wide, if you does not know how many acres ?

A. About one mile in width and a little less in length.

Q. Did these acequias and cultivated lands look like new, or did they have the appearance of being old ?

Mr. REYNOLDS. I object to the form of the question.

The CHIEF JUSTICE. He may answer the question.

A. They were old ditches.

Q. When was the first time you ever went to Torreone, if you recollect ?

A. I can not recollect, I was a very small boy at the time.

Q. Well, do you recollect the appearance of the town of Torreone, if there was a town there, the first time you went there as a boy ?

A. Yes, sir.

Q. Tell us what it looked like.

A. It was a little settlement of about thirty families when I went there.

Q. And were these acequias and cultivated fields there at that time ?

A. Yes, sir.

56 Q. What is the Pedernal ?

A. It is a cerro—a hill.

Q. Is there any distinguishing marks about it, except it being a hill ; any peculiarities ?

A. It is a high cerro ; there are other smaller ones.

Q. At what point of the compass is it in relation to the grant ?

A. It is east.

Q. The Ojo del Chico, what is that ?

A. That is a tree, or shrub, which is called chico, and for that reason they call it Chico Springs.

Q. Is there water there besides ?

A. Yes, sir.

Q. What way do these waters come ; north or south ?

A. A little north, very much to the east, and very much to the south.

Q. What boundary did you say they were on, these Chico Springs ?

A. The boundary on the side of the south side.

Q. On the west ?

A. The Cuervo.

Q. What is it ; what kind of a mountain ; does it look like a hill, or what is it ?

A. It is a spring. Possibly there was a tree there and had crows' nests in it, and for that reason they called it Crow Springs.

Q. What is the cibollo ?

A. It is called the cibollo because formerly there was buffalo there.

Q. What is it?

A. It is a spring.

Q. Is there also a mountain Cibollo there?

A. There are trees there—woods.

Q. What is there; what is the nature of the objects, I mean?

A. Woods.

Q. Enumerate the kinds of woods; what is there with reference to the spring, cibollo?

A. There are woods on both sides, one side and the other.

Q. Do they surround the spring on all sides, or only on two sides?

A. There are woods on all sides of it.

Q. Well, now, are there any other objects of the same names as these five you have given, in that neighborhood, of the same name; are there any other objects?

A. No, sir; there are not.

57 Q. Are these names that you have given there, are these the names that are generally applied to these in that neighborhood, or not?

A. Yes, sir.

Q. Well, now, where is the sierra, on which side of the grant, as you have drawn it there is the sierra?

A. On the west side.

Q. Now, then, where is the town of San Fernando with reference to this sierra?

A. On the west of the mountain.

Q. What river is on the west of the mountain?

A. The river Del Norte, Rio Grande.

Q. Where is San Fernando?

A. Near the place of the Canada del Berrendo.

Q. With reference to the sierra of this grant you have mentioned?

A. Westward.

Q. How far is it from the top of the sierra, hill, to the town of San Fernando?

A. I do not know; there may be some twenty miles, more or less.

Q. Near San Fernando is where Bartolome Baca lives, is it not?

A. Yes.

Q. Which way did you go from San Fernando over to the grant, and how long does it take you to go there?

A. On a good horse one could go there in half a day.

Q. Did you know Jesus Saavedra?

A. Yes; I know him.

Q. Is he dead or alive?

A. He is dead.

Q. Did you know Miguel Lucero?

A. Yes, sir.

Q. Dead or alive?

A. He is dead.

Q. Roman Torres?

A. Yes, sir.

Q. Is he dead or alive?



A. He is dead.

Q. Is Jesus Saavedra the same man as Y. Romero ?

A. Only one man.

Q. Clemento Chaves, did you know him ?

A. Yes, sir.

Q. Is he alive or dead ?

A. He is dead.

Q. Matias Sanchez ?

A. Yes ; I knew him ; he is dead.

Q. Do you know whether the men you have mentioned testified before the surveyor-general in this case with you ?

58 A. Yes, sir ; they were.

Q. Did you at any time make a deed to your interest in this grant to anybody ?

A. Yes ; to Don Manuel Antonio Otero.

Q. What date was that ; do you remember ?

A. I do not remember, but it was at the time when we found the grant.

Q. Is Manuel Otero dead or alive ?

A. He is dead.

Q. When did he die ; how long ago ?

A. I do not remember.

Q. About ?

A. About six or eight years ; a little more or less.

Q. Take the witness.

Cross-examination by Mr. REYNOLDS :

Q. Give me the names of the sons of Bartolome Baca—you say you have known Jesus Saavedra ?

A. Yes.

Q. Did you ever have any conversation with him in re'ference to the boundaries of this grant ?

A. Yes, sir.

Q. What did he say in relation to them ?

Mr. O'BRIEN. I object, as it is leading.

The CHIEF JUSTICE. We will take it subject to the objection.

Q. What did he say ?

A. He said that he was a servant of Bartolome Baca, and that he was with him on the estancia, and that was the land of Don Bartolome Baca.

Q. What did he say was the land ; what description ?

A. He mentioned the boundaries to me ; he said it was Cuervo, Ojo del Chico, and bounded by the lands of Pederal, and he said these were the boundaries ; the Ojo del Cibollo, also.

Q. Was there any familiarity or not between you and this man ; and if so, state what were the reasons for it.

A. There was no familiarity ; he was Don Bartolome Baca's servant, and I saw him when I went there to Manzano. He had then moved to Manzano, because Don Bartolome Baca had died, and in order to preserve the name of Bartolome they gave it to me.

Q. From whom did you get your name of Bartolome ; after whom ?

A. From Bartolome Baca.

59 Q. Give me the names of the sons of Bartolome Baca.

A. Juan Baca, Manuel Baca.

Q. No other?

A. There are only two.

Q. Were there not three?

A. No.

Q. Do you know how long this man Jesus Saavedra was in your grandfather's family?

A. I do not know; he was working for Don Bartolome Baca; he was his servant. He might have been with him all his lifetime, or longer; I do not know.

Q. Well, if \_\_\_\_\_ ever testified that your father ever had a son named Jose Baca, he was mistaken, was he?

A. He was mistaken, because he had only two; if he had they died.

Q. You were born in 1834?

A. In the year 1834, towards the end of the year.

Q. When was the first time you ever went to Torreon?

A. I do not remember; I do not know; it was not before 1857.

Q. How old were you when you went there the first time?

A. 17 or 18 years, I think.

Q. You found about thirty heads of families there, did you?

A. Yes.

Q. You found them grazing their stock about estancia, didn't you?

A. I did not see any stock of theirs there.

Q. Who was living there the first time you were ever there—at Torreon?

A. Don Nerio Montoya and his children, and other persons.

Q. They were not children or grandchildren of Bartolome Baca were they?

A. They were not.

Q. The children or grandchildren of Bartolome Baca returned there after that time, didn't they?

A. When Don Nerio Montoya returned, the two grandchildren of Don Bartolome Baca returned there also.

Q. Lived at Torreon?

A. Two at Torreon, and another at San Fernando.

Q. How many settlements were there on that grant the first time you were ever on it?

A. I do not remember how many.

60 Q. Don't you know any?

A. I know of some.

Q. You testified before the surveyor-general, didn't you?

A. Yes, sir.

Q. Did you testify as to how many settlements were on that grant then?

A. Yes, sir; more than this I do not know.

Q. What are they?

A. There was Torreon, Tajique, Chillili.

Q. Manzana on it then?

A. Manzana is beyond the grant.

Q. Was it known at that time as being beyond the grant?

A. Yes.

Q. Did you so understand it to be outside of the grant then?

A. Yes, sir.

Q. Who told you so?

A. The inhabitants of Torreon and Manzana.

Q. They were not grant claimants, were they?

A. No, sir.

Q. Was it formerly claimed that the boundaries of the grant took in Manzana?

A. No; all the grant was off Don Bartolome Baca; it was not.

Q. How many people lived at Tajique the first time you ever saw it?

A. About 25 or 30; it was a small settlement.

Q. How many in Chilili?

A. There were a few also; there were not many; I cannot say how many.

Q. Was that in the grant too?

A. Yes, sir.

Q. You understood the boundaries took in Chilili?

A. Yes.

Q. And you understood the north boundary to be what?

A. The Ojo del Cibolo.

Q. Is that north or south of Chilili?

A. North.

Q. When did you sell your interest in this grant?

A. I do not remember the year.

Q. How long after you and Mr. Otero found those papers in the chest?

A. I do not remember exactly what time.

Q. That was the first time you knew you had a grant, wasn't it, when you found the papers?

A. No, I knew it before.

Q. Did you ever hunt for the papers before?

A. No.

61 Q. Who was the administrator of your grandfather's estate?

A. I do not remember; but then I do remember that my father was the administrator of the property of the estate of Bartolome Baca.

Q. Are you certain about that?

A. Yes.

Q. What was the name of the wife of Bartolome Baca?

A. Luz Chaves.

Q. Did she survive him?

A. Yes.

Q. How long after his death did she die?

A. I do not know.

Q. What became of her after he died?

A. She went to live with my mother.

Q. Where?

A. On this side of the mountain towards San Fernando.

Q. It wasn't on the grant, was it?

A. No; no, it was not in San Fernando.

Q. You do not know when she died?

A. No, sir.

Q. One of the sons, Juan Baca, was living in 1829, wasn't he?

A. I believe so.

Q. How far is Tome from this grant?

A. About thirty to thirty-five miles.

Q. Juan Baca was secretary of the ayuntamiento of Tome at one time, wasn't he?

A. I do not know.

Q. Did you ever know of any other Juan Baca down there?

A. No.

Q. You have been down in that country all your life?

A. Yes.

Q. Familiar with the country?

A. Yes.

Q. Familiar with the people?

A. Yes.

Q. The ayuntamiento of Tome had jurisdiction over that country, didn't it, including Torreon and Estancia grants?

Mr. O'BRYEN. Object to the question, as it is leading.

The CHIEF JUSTICE. He may answer it subject to the objection.

A. I do not understand you, nor do I understand what  
62 ayuntamiento means.

Q. You knew Nerio Montoya during his lifetime, did you?

A. I knew him a very little while; he was very much older than I.

Q. Did you state a while ago that the first time you went over to Torreon that Nerio Montoya was living there; gave his name a little while ago?

A. Yes, sir; I said so.

Q. You knew him at that time; you saw him afterwards?

A. Yes, sir.

Q. Was he one of the men who told you what the boundaries of this grant were?

A. Yes, sir.

Q. Have you ever read this paper lately?

A. Yes; I read them when I delivered them to Manuel Antonio.

Q. How did you know they were the same papers?

A. Because I know them well; I know the handwriting; I know it all.

Q. You knew the grant to the Bartolome Baca lands, you claim?

A. Yes, sir.

Q. How did you know it?

A. I know it because I see everything here. I know the handwriting, I see they are of the governor.

Q. Have you examined that paper to find out whether it is the same paper since it has been handed you?

A. No.

Q. You identify it simply because it was handed to you by your counsel; therefore you assume it is the proper paper?

Mr. O'BRYEN. I object to the question because there is no proof that he has any counsel; as a matter of fact, he has not.

The CHIEF JUSTICE. He may answer.

A. I presume that it is the same. It is the same that I delivered to Don Manuel Antonio.

Q. Whose signature is to it—to the document?

A. Don Bartolome Baca. Here it is.

Q. Is that Don Bartolome Baca's signature?

A. This is his name.

Q. Is that his signature?

A. What thing is it; is it the handwriting of Don Bartolome Baca, or what thing is it that you want me to understand?

Q. The name that you see there. Did Bartolome Baca write it, or somebody else?

A. I do not know who wrote it; it is true in these papers who made this grant.

Q. The only way you identify the paper is because you see the name of Bartolome Baca under it?

A. Because I see it all in the same handwriting that I saw at that time; and this is the grant of Bartolome Baca.

Q. Might it not be another one?

A. No.

Q. Why?

A. Because it is the same.

Q. You have read it?

A. I have read it before.

Q. You have read it to-day?

A. No.

Q. In which direction is Estancia Springs from the Chico Spring?

A. I am not a surveyor so as to be able to tell you accurately; but little more or less I can do so.

Q. Well, do it.

A. About east to west.

Q. Do you know a place there on this grant called Barranca?

A. Yes, sir.

Q. Do you know a place there called Del Tule?

A. Yes, sir.

Q. Also a place called Mestenitas?

A. Yes, sir.

Q. Laguna del Perro?

A. Yes, sir.

Q. Is that on this grant?

A. Yes, sir.

Q. Do you know more than one Laguna del Perro?

A. There is a lake of the Salinas.

Q. Well, do you know any other Laguna del Perro?

A. I do not know whether there are any other. There are some small lakes there; this one is a large lake.

Q. Well, does this large lake lie inside or outside of the grant?

A. Within.

Q. How far is it from Chico Lake?

A. I do not know; I do not remember.

Q. Do you know the direction?

A. The lake Laguna del Perro lies to the north.

Q. Locate your Perro Spring.

A. I am not going to draw this thing exactly; a little more or less I am going to draw it. There, now, you have got your mountain and your Crow Springs.

64 Q. Now locate the Torreón. [Witness does so.]

Q. Now locate the Laguna del Perro. [Witness does so.]

Q. Now locate the Mesténita Springs. [Does so.]

Q. Now locate the Chico Springs. [Witness locates them.]

Q. Now locate the Cibola Mountains. [Witness does so.]

Q. Now locate the Ojo del Cibola. [Witness does so.]

Q. Now locate the Salt Lakes. [Witness does so.]

Q. Now locate your Estancia Springs. [Witness does so on blackboard before him.]

Q. Now locate Pedernal Hill. [Witness does so.]

Q. Now draw the outboundaries of the grant. [Witness does so on blackboard before him.]

Cross-examination by Mr. REYNOLDS:

Q. Do you know anything about the location of what is called the Whitney grant?

A. No, sir.

Q. Did you ever hear of a grant called the Sandoval grant?

A. No, sir.

Q. You never heard of it in 1857 when you lived on this grant?

A. No, sir.

Q. You have not heard of it until very recent years, have you?

A. Not until now, when I heard you mention it here.

Q. Did you ever know a grant called Estancia grant?

A. Only the grant of Don Bartolomé Baca.

Q. Did you ever hear of a grant called Antonio Sandoval grant?

A. No, sir.

Q. Did you ever hear of a grant called Neri Antonio Montoya grant?

A. No, sir; neither.

Q. Did you ever hear of a grant called the Ojo de los Cochinos?

A. I heard the Ojo de los Puercos spoken of. Don Bartolomé Baca brought more than a thousand pigs there and put them at these springs; hence it was called Ojo de los Puercos.

Q. That is within this grant?

A. Yes, sir.

Q. Did you know of a grant there besides the Bartolomé Baca grant?

A. No.

Q. Your people claimed it all the time?

65 A. As belonging to Bartolomé Baca.

Q. And after his death as belonging to his heirs?

A. Yes.

Q. Are you one of his heirs?

A. Yes.

Q. You were living there all the time?

A. Not all the time; I was except during the time when I was living at Tame.

Q. But you and the heirs of Bartolomé Baca claimed to hold possession all the time; some of them were out there at Torreón nearly all the time?

A. Yes.

Q. They were pasturing their stock at Estancia Springs, weren't they?

A. Yes, sir.

Q. All the time?

A. All the time during which we lived there; yes, sir; and the other heirs too, also.

Q. Did the people at Torreon build those acequias and irrigating ditches?

A. I do not know; I understand it was done by Bartolome Baca, because I understand that it was he that had the first acequia.

Q. Who told you so?

A. My mother.

Q. When did she tell you so?

A. During her lifetime.

Q. Was anybody living at Torreon at the time of Bartolome Baca's death?

A. Servants of Don Bartolome Baca had lived there.

Q. Wasn't Torreon established until 1841, after you were born?

A. I do not know.

Q. Your mother didn't tell you about that?

A. No.

Q. Bartolome Baca never lived on this grant, did he?

A. I do not know whether he lived there or not.

Q. Don't you know he did not?

A. His children lived there, and he might have lived there also.

Q. Don't you know where Bartolome Baca lived all his lifetime?

A. I do not know; I can not know; I knew that he lived there and at San Fernando.

Q. Did your mother tell you he lived there all his life?

A. No.

Q. You never made any enquiries about that?

A. No.

Q. He died there?

A. Yes.

Q. Didn't he live at Manzano at one time?

A. I think he lived there, because he was a settler of Manzano.

Q. One of the first settlers?

A. Yes, sir.

Q. Wasn't he there before the settlement was made?

A. I do not know whether he was there, but I believe he was there.

Q. Is it your information that Bartolome Baca was at Manzano before any settlement was made there?

A. I do not know; I think so; I have no information on the subject.

Q. You say your father was administrator of Bartolome Baca's estate?

A. Yes, sir.

Q. Did Bartolome Baca leave a will?

A. I do not know.

Q. Did you ever look for one?

A. Yes.

Q. Didn't find any?

A. No.

Q. Wasn't his wife his administratrix?

A. I do not know; I believe so.

Q. Then your father was not?



A. Yes, he was.

Q. Were there two of them?

A. Perhaps there were two; I do not know.

Q. That is all.

Redirect examination by Mr. O'BRIEN:

Q. The district attorney asked him whether Torreon was not established in 1841; ask him if he don't know that the servants and employes of his grandfather, Bartolome Baca, were all there, or a great many of them, at that time, and formed a sort of a town there by themselves long prior to 1841?

A. Yes, sir.

Q. How do you know it?

A. Through the servants which Don Bartolome Baca had.

Q. Was Antonio Bartolome Baca a servant of your grandfather?

A. He was not.

Q. Name me any of the names of people that you knew the first time you were ever living at Torreon, the first time you went there.

A. Don Mauricio Sanchez.

Q. Who was he?

A. Grandson of Don Bartolome Baca.

Q. Next?

A. Santiago Casar.

67 Q. Who was he?

A. Grandson of Don Bartolome Baca.

Q. I am asking you about the people living at Torreon when you first went there.

A. I do not remember anyone who lived at Torreon.

Q. These were all the people that you knew living there the first time you went there?

A. There were other persons there, but I do not remember who they were.

Q. Were they all peons of Bartolome Baca at Torreon the first time you went there?

A. No. Peons were there before Bartolome Baca.

Q. When did they leave?

A. I do not know when they left.

Q. None of the people that were living there the first time you went there were peons of Bartolome Baca, were they?

A. No.

That is all.

AUGUST 28TH, 1894, 10 a. m.

Court met pursuant to adjournment.

WILL M. TIPTON, of lawful age, being produced, sworn, and examined on the part of the plaintiff, testified as follows:

Mr. O'BRIEN. Will the Government admit the competency of Mr. Tipton?

Mr. REYNOLDS. The Government will admit his competency for the purposes of the case.

Direct examination by Mr. O'BRIEN :

Q. Mr. Tipton, I will get you to look at these papers [hands witness paper]; look at that signature there of Melgares and state in whose handwriting that is. How often does it appear, first?

A. It appears in the margin of the second page, and also at the bottom of the third page, although there the name is not complete, a portion of it having been torn off.

Q. Well, now, as to the first one mentioned?

A. What do you want to know about it?

Q. Whose handwriting is that in?

A. In my opinion it is Melgares'.

Q. You mean the governor of New Mexico?

A. Yes, he was governor at one time.

Q. Now as to the second signature, the one which is partially torn off, what have you to say?

68 A. I think the first letter is nearly torn off.

Q. Is there a cross to the "M" there?

A. With the exception of the stroke of the "M," that is all there is of the first letter.

Q. That stroke appears in the first signature crossing over the "M" on the first part of this signature?

A. Yes.

Q. Now, as to the remainder of it, how about that?

A. I have no reason not to think that the second one is also in the handwriting of Melgares.

Q. Now, that scroll at the bottom, called rubric, what have you to say as to that?

A. I have never given any particular attention to the scroll he customarily attached to his name, but that name itself is certainly genuine, and I have no doubt the scroll is, although I have not carefully examined it. There is a great difference in the way he made these scrolls, as you can see from these two on this document.

Q. The writing over the last signature, in whose handwriting is that; there are two or three words over the last signature, whose handwriting is that, is it in the same ink; is it in the same ink as the signature ink; are those words in the same ink as the ink in the signature?

A. Yes, sir; I think they are, and I think the words are in the handwriting of Melgares himself.

Q. Now, isn't that ink over those signatures—the last words—different from any other ink on that paper, that whole document?

A. I think not; I think it is the same ink in which the marginal decree is written.

Q. Well, is it of the same ink as the last page above the signature, the other part of the document?

A. No, sir; I think not.

Q. The edge or margin there appears to be the same ink?

A. They appear to be the same.

69 Q. Would you infer from that that the ink on the last signature and the ink of the first signature came from the same place and the same office in which it was written?

A. I do not know that I would infer that; they might have been written in different places.

Q. Well, what have you to say about it?

A. I do not want to say anything about it; I do not want to start out guessing about it; it may have been taken out of the same ink bottle; I do not know anything about that.

Q. What is the first signature signed to—the marginal signature, what is it attached to?

A. The first signature of Melgares, the marginal signature, is attached to an order directing the alcalde to give the possession of this tract of land.

Q. You had occasion to refer to these printed documents, have you not, in comparison, hav'n't you?

A. I don't remember that I have; I may have looked at them a year or so ago; I have no recollection of it now; I have not examined these papers for a year.

Q. Will you have the kindness to look at this translation of that grant and compare it with the original [hands witness a book]? Look at the last signature there of Melgares, and also the words above the signature, los limites por. Is there anything written or was there anything written after that word por?

A. I see no evidence of it.

Q. No erasure that you can discern?

A. I never looked for one; I do not see any evidence of any erasure after the word por.

Q. That is all for the present.

Mr. O'BRIEN. We now offer in evidence this paper that I called the last witness' attention to, marked No. 2, file 123, recorded on pages 651 to 653 of vol. 6, private land claim records.

Mr. REYNOLDS. I object to the introduction of that instrument for the reason that it purports to be an original produced from private hands; it has not been shown that it was ever an archive; the decree provides that it shall be returned in order that it may be approved and the original placed in the archives, and the testimonio, or evidence of title, be given to the grantee. There is no memorandum or note to the effect that the instrument was ever an archive, and it has not been shown in any way  
70 that it ever was an archive.

The CHIEF JUSTICE. We will take the document subject to the objection.

Mr. O'BRIEN. We now offer in evidence translation of these grant papers; translation of the original paper.

JOSE ANTONIO PADILLA Y MONTOYA, of lawful age, being produced, sworn, and examined on the part of the plaintiffs, testified as follows:

Direct examination by Mr. O'BRIEN:

Q. What is your name, residence, and age?

A. Jose Antonio Padilla y Montoya; I was born in the year 1808; I live at Manzano.

Q. How long have you lived there?

A. About forty years.

Q. Where did you live before that?

A. In Valencia, where I was born.

Q. Do you mean the county or the town?

A. The town of Valencia.

Q. How far is that from Manzano?

A. There may be about ten or twelve miles.

Q. Do you know this tract, or grant, of Bartolome Baca, in Valencia County?

A. Yes, sir.

Q. How long have you known that?

A. Since 1829.

Q. Whom did you come there with?

A. With my father.

Q. I mean when did he first come upon the territory of the Bartolome Baca grant?

A. I went first to the Torreon when Juan Baca and Manuel Baca were with peons, servants.

Q. When was that?

A. I do not remember; it was in the year 1829 that we went to Manzano; I was a shepherd.

Q. (To the interpreter.) Where did he first see those two men he has mentioned at Torreon, Juan and Manuel Baca?

A. Perhaps about the year 1830; I was a shepherd there, with sheep and goats.

Q. Who were these two men; who were they sons of?

A. They were sons of Don Bartolome Baca.

71 Q. What were they doing at Torreon?

A. They had a corral, a torreon, and houses, and they were there with their servants.

Q. How many servants did they have, if you know?

A. All of us at Manzano were his servants.

Q. Did they have any flocks or herds at that time?

A. They had flocks of their father, Don Bartolome Baca.

Q. Where did they keep them?

A. I saw herds of horses at Estancia.

Q. Coming back to Torreon, were there or were there not there the first time you went there any acequias, irrigating ditches?

A. I saw an irrigating ditch which run along at the beginning to the Vega Blanca, and lower there was one acequia on the other side; they were for gardens.

Q. Well, what was the length of this acequia, as well as you can judge?

A. They drove me away from the acequia; would not let me get any water, because they said *to* belonged exclusively to them.

Q. I am asking him how long were those acequias?

A. I do not know how long they were; they—it reached as far as Vega Blanca.

Q. How far was that from Torreon?

A. I do not know; it is quite far.

Q. Well, now, did those irrigating ditches furnish water to any fields that were cultivated there or not?

A. Yes, sir; the servants of Don Bartolome Baca planted there.

Q. How much land did they plant, and what did they raise, if you know?

A. I do not know how much land; they planted corn and beans, and gardens.

Q. To the nearest of your recollection, how many varas wide and how many varas long was the cultivated land under those acequias?

A. I do not know; there may have been one acre of land, because they were but beginning there then; they were beginning their settlement then.

72 Q. And how long did they continue there, if you know?

A. I do not know; some a long time. There are still persons living there.

Q. Is Vega Blanca within the grant, if you know?

A. Yes.

Q. How long did you continue to know the settlement of Torreon?

A. Since the year 1829. In the year 1829 my father took me to live at Manzana.

Q. Did you know Bartolome Baca in his lifetime?

A. I knew him very well.

Q. Do you know when he died?

A. I do not know the date.

Q. At the time of his death—immediately prior to the time of his death—how many acequias, how many ditches, and how much land was under cultivation at Torreon?

A. I do not know how much land; there were three ditches.

Q. Well, was there more under cultivation and more acequias at the time of his death than there was when you first saw it?

A. There was certainly more.

Q. At the time of his death do you know whether any other people were living at Torreon than the employes and servants of Bartolome Baca?

A. His servants and his sons only lived there.

Q. Do you know about how many persons they constituted all at that time—how many persons composed that place at the time of his death?

A. I do not know; I saw about four or five houses of the workmen.

Q. Can you give the names of any of the workmen, if you knew them?

A. Yes.

Q. Mention their names, as many as you can recollect.

A. Bernardino Chaves; Bernard was at estancia as overseer.

Q. What other servants were at Torreon?

A. I knew him they called Merchoche; another whom they called El Barrose; another, Jose Maria Marta; another, Jose Manuel Trujillo; those I knew.

Q. Well, now, the first one, you say, he was at estancia; what was he doing there?

73 A. He was overseer, taking care of the stock and looking out for the men.

Q. What did he have there at estancia besides stock?

A. They had also horned cattle.

Q. How many horses did they have, as near as you know?

A. I saw the places full of horses and cattle, but I do not know the number.

Q. Were there any sheep there?

A. They had about fifteen lots of sheep; I do not know how many there were, though.

Q. Fifteen lots?

A. Yes.

Q. How many sheep in a partida?

A. I do not know; I do not know how many there were.

Q. Were there one hundred or were there a thousand or three thousand in those partidas, each one?

A. There must have been at least five thousand sheep in each lot.

Q. How many men were assigned to take charge of each lot?

A. I do not know, sir.

Q. Now, you said the men at Manzano were employes of Bartolome Baca, have you not?

A. Yes; he helped us and we all served him.

Q. Did you ever drive any of your father's animals near the estancia?

A. Yes; I drove them near there, and Mr. Bernardo Chaves drove me away from there and wanted to horsewhip me.

Q. Why, what was the occasion of that?

A. Because my father had no right to water his stock there; that it was the property of Bartolome Baca.

Q. How far did he say the property of Bartolome Baca extended, if at all?

A. In which direction?

Q. In any direction and in all directions.

A. I knew that from the Cuervo of the Chico, and from the Chico to the Pedernal, and from the Pedernal to the Cibolo, and from there to the summit of the mountain, and from the summit of the mountain back to the Cuervo; I knew nothing about the survey, but it was notorious among the people that those were the boundaries.

Q. At the time you spoke of being driven off by this Bernardo Chaves, was that during the lifetime of Bartolome Baca?

74 A. Bartolome Baca was still living then.

Q. Can you say about what year that was?

A. No, sir.

Q. Was it when you first came there, or was it some time subsequent to your coming there?

A. It was some time after I went to live at Manzano.

Q. Did you ever hear the two sons of Bartolome Baca who lived at Torreon say anything about this grant.

Mr. REYNOLDS. I object to the form of the question; it is incompetent, and he can not prove ownership that way.

The CHIEF JUSTICE. He may answer the question subject to the objection.

Q. (Continuation of the question.) What, if anything, did they say?

A. Yes, sir; that it was the property of their father.

Q. Now, at the time that you lived at Manzano and worked for your father, how many people, as near as you can guess, were in the employ of Bartolome Baca on this grant?

A. I do not know; there were a good many; I do not remember how many there were.

Q. Well, were there twenty, or one hundred?

A. About thirty.

Q. Now, to whom did all the horses, cows, and sheep belong that were there on the grant?

A. To Bartolome Baca.

Q. Was there any planting at any time, or cultivation at this Vega Blanca?

A. I never knew any cultivation there; I knew the ditches, but I never saw any cultivation there.

Q. Who was it, if you know, that was cultivating the land that was irrigated by those ditches?

A. Yes, the servants of Bartolome Baca.

Q. Do you know what quantity of corn they raised, and what was done with it?

A. No, sir; I was herding my sheep; I do not know.

Q. During the time that you were there from 1829, what do you know about the Indians in relation to this grant of course?

A. They were very bad Indians; they did a great deal of damage.

Q. What was done towards preventing their doing damage and making incursions, and who did it?

75 A. They made campaigns against them.

Q. Who made campaigns, and who was at the head of the campaigns?

A. Don Bartolome Baca attended to that business.

Q. Whom did he get as his assistants?

A. I do not remember.

Q. Do you mean you do not remember the names of the localities from which he drew his assistants?

A. The town there, about there.

Q. You mean the people of Manzano and Torreon?

A. They got men from everywhere for their campaigns, all around.

Q. Do you know anything about a blockhouse at Torreon being built, and who built it?

A. That is the Torreon itself.

Q. Who built that?

A. Don Bartolome Baca and his servants.

Q. Do you know in what year that was built, or about?

A. About the year 1830; there were houses there in 1829.

Q. Do you know what became of those two sons of Bartolome Baca that lived at Torreon?

A. I understood that Juan Baca had gone to California; I do not know what became of Manuel.

Q. Do you know what time he went to California?

A. No, sir.

Q. That is all.

Cross-examination by Mr. REYNOLDS:

Q. You were formerly a sheep herder?

A. Yes, sir.

Q. That is your business yet?

A. No, sir.

Q. What is your business now?

A. I am a farmer.

Q. Where do you farm?

A. At Manzano.

Q. You have been living there since 1829?

A. Yes, sir.

Q. Did you know Bartolome Baca personally?

A. I knew him very well, indeed.

Q. Quite intimate with him?

A. Yes, sir.

Q. He lived at Manzano once, at one time, didn't he, Bartolome Baca?

A. I saw him there sometimes; and I saw his sons and his servants living at the Torreon.

Q. How much of a place was Manzano when you went there?

76 A. It was quite large.

Q. Fields being cultivated there at that time? I am enquiring about Manzano.

A. Yes, sir.

Q. People had been there long time?

A. Yes, sir.

Q. Had irrigating ditches?

A. Yes, sir.

Q. Were they all a continuation of the same acequias?

A. No, sir.

Q. Where did those acequias come from?

A. Out of the spring on the other side of Manzano.

Q. Was there a spring at Torreon?

A. Yes, sir; there was.

Q. That is how it got its name, wasn't it?

A. Torreon was built there by Don Bartolome Baca.

Q. Then it did not have the name of Torreon before Bartolome Baca went there?

A. No, sir.

Q. He gave it that name?

A. The people gave it that name because Bartolome Baca built a torreon there.

Q. You remember it?

A. Yes, sir; I remember that it was because Don Bartolome Baca built the torreon there, and it was called the torreon of Don Bartolome Baca.

Q. Did you ever know a man named Nerio Antonio Montoya, who lived at Torreon?

A. Don Nerio Antonio Montoya lived at Ojo del Monteno, and he also had a rancho.

Q. Where did he have a rancho?

A. At Ojo del Chico.

Q. Did he have a ranch anywhere else?

A. No, sir.

Q. Did you ever know a place called Tajique?

A. Yes, sir.

Q. Chili?



A. Also.

Q. Did you ever know a place called Tome?

A. Yes.

Q. Were you ever there?

A. Yes, sir.

Q. What direction is it from Manzano?

A. It lies to the northwest, but it is opposite to Monzano.

Q. How far from it?

A. About ten leagues; I do not know exactly how far.

Q. Did you ever know a man named Antonio Sandoval?

A. I knew him very well; he was the husband of Dona——

Q. Very intimate with him?

A. No; but I knew him.

77 Q. Did you know him in 1845?

A. I do not remember what year I knew him, but I knew him.

Q. Did you ever see him?

A. I saw him while he was living; yes.

Q. Did you ever see Juan Baca?

A. Oh, yes; I saw him several times.

Q. Did you ever see him at Tome?

A. I saw him in San Fernando in his father's house.

Q. How many people were living in Tome when you first knew it?

A. I do not know, sir; I was born in Valencia, and I knew Tome ever since I was born.

Q. That was where the alcalde was, wasn't it?

A. There were *alcaldes* in sever' places.

Q. Well, the principal alcalde was at Tome, wasn't he?

A. I do not remember; I do not know how that was managed.

Q. That is all.

Redirect examination by Mr. O'BRIEN:

Q. Do you know what relation existed between Nerio Antonio Montoya and Bartolome Baca?

A. I do not know.

Q. Do you know whether they were friends or not?

A. I do not know whether they were friends or neighbors; I do not know.

Q. Was it before or after the death of Bartolome Baca that Nerio Montoya came to the hog ranch at Cochico?

A. It was afterwards.

Q. It was after his death?

A. Yes, sir.

Q. Before the death of Bartolome Baca, do you know whether he ever lived at a place called Cochinos?

A. He had some hogs there and men looking after them.

Q. Do you know how long he had them there—whether it extended over a period of years, or simply for one season?

A. He had them there for some years, and finally the hogs went wild.

Q. Do you know how many there were, about?

A. I do not know.

Q. Did you ever see them?

78 A. Yes, sir; I saw one lot of about one hundred hogs.

Q. Did he have the hogs divided into partidas the same as sheep, or in one lot?

A. They were altogether.

Q. Did you know Jose Garcia de la Mora?

A. No, sir.

Q. Did you know Jesus Hurtado?

A. Oh, yes.

Q. What was he in relation to Bartolome Baca?

A. He was one employed by him; he died only a few years ago.

Q. What was his business?

A. He lived with his children, who supported him.

Q. In his early life, in 1829, what was he doing then?

A. He was a farmer and muleteer.

Q. For whom did he work?

A. He worked for those who paid for it.

Q. Did you ever know of his working for Bartolome Baca?

A. Yes, sir, also.

Q. How long was he working for him?

A. He worked for him when he called on him and sent for him. Bartolome Baca helped the people of Manzano; he wanted to see it settled, and gave them oxen and horses.

Q. Did you know Miguel Lucero?

A. Yes, sir; I knew him very well.

Q. Did he work for Bartolome Baca?

A. I do not know whether he worked for him or not; he lived there.

Q. Where?

A. He lived at Manzano on the pueblo of Cuar-r.

Q. That is all.

Recross-examination by Mr. REYNOLDS:

Q. Did you know a man named Martin Torres?

A. Knew him very well.

Q. Where did he live?

A. He lived at Manzano, and also at Torreon.

Q. Did he work for Bartolome Baca?

A. Yes.

Q. What did he do?

A. Anything they set him to do.

Q. Was he a shepherd?

A. He was a shepherd and did what they sent him to do.

79 Q. Did you know Clemento Chaves?

A. Very well.

Q. Where did he live?

A. He lived at Los Enlames.

Q. Do you know where he lived in 1879?

A. I do not remember.

Q. Did he ever live in Tome?

A. Yes; he lived there after he was married.

Q. Do you know whether he ever worked for Bartolome Baca?

A. I do not remember.

Q. That is all.

Mr. REYNOLDS. That is all.

WILL M. TIPTON, being recalled for further examination, testified as follows:

By Mr. O'BRIEN:

Q. Do you know whether there were any other grants made by Melgares in this territory?

A. I believe he made a number of grants.

Q. Can you name any of them, or all of them?

A. I can only state from recollection; I can not be perfectly positive about them; I think Melgares made the Canon de Carnue grant in 1819; I think he made the Antonio Ortiz grant and the Anton Chico grant.

Q. Do you know what date that was?

A. My impression is that it was in 1822.

Q. Do you know what time the Ortiz grant was made; wasn't it in 1818 or 1819?

A. I do not recollect; I never had occasion to look it up; I think it was in 1819.

Q. Do you know the date of a grant to Pedro Armendariz reported number 33, and also a grant in the same name, a grant to the same grantees under another claim, which is reported number 34; do you know the date of that?

A. No; I can not say that I do.

Q. Do you know Lady of Light, a grant of that name, commonly called that name?

A. I recollect such a grant, but I do not remember whether Melgares made it or not.

Q. Do you know whether any of those grants have been confirmed by Congress?

Mr. REYNOLDS. I object to the question, because Congress could give it away whether Melgares gave it away or not.

The CHIEF JUSTICE. We think it is not competent.

Mr. O'BRIEN. That is all.

Cross-examination by Mr. REYNOLDS:

Q. Do you know whether Melgares made the Eaton grant?

A. Yes, he did; I had forgotten that.

Q. What is that known as—the Eaton grant?

A. It is commonly called, sometimes called, San Cristobal.

Q. Do you know when that was made?

A. I am not certain when it was made; I forget the date; it was about the time that this Galisteo claim came up; I think some time in the spring of twenty-two, but I am not perfectly certain about it.

That is all.

Mr. O'BRIEN. That is all.

Mr. O'BRIEN. We ask now that those grants made by these gentlemen may be introduced in this case.

Mr. REYNOLDS. I object to their introduction, because it is not shown that Melgares did exercise the right to dispose of the public lands from 1818 to 1823.

The CHIEF JUSTICE. We will take them subject to the objection.

Mr. O'BRIEN. We desire now to read the testimony taken before the surveyor-general in regard to this grant of the following persons: Jesus

Sauvedra, Miguel Lucero, Mariana Torres, Jesus Sauvedra y Romero, Clemente Chavez, Matias Sanchez, Clemente Chavez.

After the reading of the said testimony a recess was taken until two o'clock p. m.

The hour of two o'clock p. m. having arrived, the further hearing of the above-entitled cause was resumed as follows:

Mr. O'BRIEN. We desire to call Mr. Bergere as a witness.

A. M. BERGERE, called as a witness on behalf of the plaintiffs, being duly sworn and examined, testified as follows:

81 Direct examination by Mr. O'BRIEN:

Q. What is your name?

A. A. M. Bergere.

Q. Where do you reside?

A. At Los Lunas, New Mexico.

Q. What relation are you to the plaintiff, Elosie L. Bergere?

A. Husband.

Q. Are you familiar with the lands of the Bartolome Baca grant?

A. Yes, sir.

Q. How often in the last few years have you been over it, if at all?

A. Some twenty or thirty times.

Q. Have you or your wife any cattle or horses on the property of the Bartolome Baca grant at present?

Mr. REYNOLDS. I object because it is immaterial.

No ruling.

Q. Do you know the boundaries of the grant?

A. I do by hearsay.

Q. What are they?

Mr. REYNOLDS. We object, because you can not prove the boundaries by hearsay evidence.

The CHIEF JUSTICE. We suppose it is asked for some other purpose.

Q. Are you acquainted with the alleged boundaries of the grant?

A. Yes, sir.

Q. What are they?

A. On the south the Crow Springs and the Chico Springs; from there east to the Pedernal Hills; from there north to the Ojo del Cibolo or Buffalo Springs, and from there to the top of the Mansano Mountains, running south then on the Manzano Range to opposite the Crow Springs, and from there southeast to the Chico Springs.

Q. Are you acquainted with these objects on the grant and the relative distances from each?

A. Yes, sir.

Q. Have you at any time prepared a map of the same showing the size or the plan of this grant, the shape of it?

A. I have; yes, sir.

Q. Is that the map? [Hands witness map.]

A. Yes, sir; that is a copy of the map.

82 Q. More copies than one were prepared?

A. Yes, sir; about eight or ten.

Q. From your actual knowledge and observation, is that a true copy?

A. From my recollection, this is a true copy of the boundaries.

Q. As to shape?

A. As to shape it is as nearly perfect as we can get it without a survey, I have been over the ground very carefully, and I consider it as correct as we can get it.

Q. What relation is your wife to any of the owners of this grant, or any of the alleged owners of this grant?

A. My wife was the widow of Manuel B. Otero, son of Manuel A. Otero, who bought all the interest or portions of the interest of Bartolome Baca grant.

Q. Do you know, as a matter of family history, the children of Manuel A. Otero?

A. Yes, sir.

Q. Who are they?

A. Manuel B. Otero, and Amelia Otero, and Miguel Otero.

Q. Are they living or dead?

A. Two of them are living.

Q. Which?

A. Miguel Otero and Amelia Otero; Manuel B. Otero was the first husband of my present wife.

Q. Manuel B. Otero, when did he die?

A. Died, as far as I can recollect, in March, 1882.

Q. Testate or intestate, leave a will or without a will?

A. That is a matter of discussion; he left a will, but it has been contested.

Q. Never been proven?

A. No, sir.

Q. Now, Manuel B. Otero, when did he die?

A. Died the 17th day of August, 1883.

Q. Were letters taken out upon the estate of Manuel A. Otero?

A. Yes, sir.

Q. By whom?

A. By Manuel B. Otero, his son.

Q. Do you know what he received from him?

A. He received everything he had, papers, lands, and property of all descriptions used in his house.

83 Q. What became of the estate, and what became of the papers?

Who succeeded the son, after his death, as administrator?

A. After Manuel B. Otero's death Dr. F. C. Henriques was appointed administrator of the estate.

Q. Do you know what became of the papers after they came into his possession, the papers of the estate of Manuel A. Otero?

A. Some few are in the hands of my wife.

Q. I am asking, now, as to the deeds to this grant testified to by you, the deeds to this Bartolome Baca grant?

A. The deeds of this grant were never found. In the early part of 1888, I have forgotten exactly when, there was a fire in the old home-  
stead of Otero and all the papers were burned in that fire.

Q. Well, what enquiries have you made among the Oteros and Henriques for the deeds of this property, and from any of the Baca heirs, if any?

A. My attorneys have made proper enquiries from Mrs. Henriques, widow of Dr. Henriques, and others.

Q. What do you know of your own personal knowledge?

A. I have personally asked for these papers, and Mrs. Henriques informed me that they were all burned up in the fire at La Constanca.

Q. Have you any other knowledge of them at all?

A. No, sir.

Q. Have they ever been in your possession, or in your wife's possession, or in the possession of any of the other heirs you have mentioned?

A. No, sir.

Q. What has become of the interest of Dr. Henriques and Beatrice Otero in this claim?

A. Mrs. Dr. Henriques and Mrs. B. Otero sold their interests to my wife.

Q. That is all.

Cross-examination by Mr. REYNOLDS:

Q. Mr. Bergere, you say that commencing at the Pedernal Hill, the eastern boundary runs directly southwest to the Chico Springs?

A. Yes, sir.

Q. And from the Pedernal Hill, the northern boundary runs in a north-westerly direction to the Ojo del Cibolo to the top of the Manzano Mountains—that line runs northwest?

A. Yes, sir.

Q. Then from the top of the Manzano Mountains down to the Ojo del Cuervo, or Crow Springs?

A. Yes, sir; it is marked right here [looking at and pointing to the place on the map before the witness].

Q. Will you mark it there on the map by a letter?

A. Yes, sir. [Witness makes letter on map.]

Q. What does this line here [pointing on map] indicate?

A. I understand that means the grant that was made to Neria Antonio Montoya; as I can recollect, that is what it means.

Q. Then the east line of the Neria Antonio Montoya grant is about on a line at the junction of the Manzano Mountains and Torreon, isn't it?

A. As far as I can recollect it is more or less so, but I would not say positively, but I believe it is.

Q. Then your line runs, as you recollect, from the Ojo del Puercos directly southeast to the Chico Springs, does it?

A. Yes, sir.

Q. That is all.

Mr. O'BRIEN. That is all.

MIGUEL A. OTERO, of lawful age, being produced, sworn, and examined on the part of the plaintiffs, testified as follows:

Direct examination by Mr. O'BRIEN:

Q. What is your name?

A. Miguel A. Otero.

Q. Who was your father?

A. Miguel A. Otero.

Q. Who was his brother?

A. Manuel A. Otero, one of his brothers.

Q. Do you of your father ever having purchased an interest of this grant from the heirs of Bartolome Baca?

A. Yes, sir.

Q. How many of them, if you know?

A. He bought from two.

Q. Who were they?

A. Baca and Baca.

Q. Do you what became—when did your father die?

A. Father died on the 30th day of May, 1882.

Q. Testate?

A. Intestate.

Q. Who was administrator of his estate?

A. I was.

Q. Did you come into possession of his papers and books?

85 A. Yes, sir.

Q. Among them did you find any deeds for this interest that he purchased?

A. No, sir.

Q. Do you know what as a matter of fact became of those deeds?

A. Only from hearsay.

Q. You never found them?

A. No, sir.

Q. What enquiry or search have you made for them?

A. Well, I looked around all over his papers for them, and I even went down to Los Lunas and have been unable to find any of the papers.

Q. Of whom did you enquire there?

A. I went to the probate clerk and asked for certified copies of any deeds there might be in the county recorder's office.

Q. They were recorded in Valencia County, were they?

A. Yes, sir; and I got certified copies of those deeds.

Q. What heirs did your father leave?

A. He left his wife and three children.

Q. Who are they?

A. My mother and my brother here, Page B. Otero, my sister, Marie Otero, who married Mr. O'Brien, and myself.

Q. They are the plaintiffs in this suit?

A. Yes, sir.

Q. That is all.

Mr. REYNOLDS. I do not want the record to show that they are plaintiffs in the suit. I insist that if these people want to become plaintiffs in this case they must be named in the petition; unless they are named and described in the petition we are not bound to answer to them.

No ruling.

Mr. O'BRIEN. We now offer in evidence certified copies of these various deeds as follows: Deed dated July 14, 1879, from Placido Robles to Miguel A. Otero, recorded in "A-4, page 243, in Valencia County, New Mexico;

Deed dated July 15, 1878, from Jose Maria Sanchez y Baca to Manuel

Antonio Otero, recorded in Book A-4, page 207, in Vallencia County, New Mexico;

86 Deed dated March 14, 1893, from Emilia Otero de Henriques and Charles H. Armijo to A. M. Bergere and wife and children, recorded in Book B-2, page 216, in Vallencia County, New Mexico;

Deed dated July 22, 1876, from Juan Chaves y Baca and Juliana Castillo de Chavez to M. A. Otero, recorded in Book A-4, page 205, in Vallencia County, New Mexico;

Deed dated June 29, 1878, from Placida Chavez y Baca to M. A. Otero, recorded in Book A-4, page 211, in Vallencia County, New Mexico;

Deed dated June 10, 1878, from Jose Luna y Lugarda Baca de Luna to M. A. Otero, recorded in Book A-4, page 213, in Vallencia County, New Mexico;

Deed dated May 24, 1878, from Santiago Sanchez y Baca and Maria Perca de Sanchez to M. A. Otero, recorded in Book A —, page 206, in Vallencia County, New Mexico;

Deed dated June 27, 1878, from Mauricio Sanchez y Baca to M. A. Otero, recorded in Book A-4, page 209, in Vallencia County, New Mexico;

Deed dated August 4, 1879, from Candelaria Baca to Miguel A. Otero;

Deed dated July 16, 1878, from Julian Sanchez y Teresa Sanchez y Sanchez to M. A. Otero;

Deed dated July 17, 1778, from Jesus Ma. Sena y Baca y Agapita Ortiz to M. A. Otero, recorded in Book A-4, page 215, in Vallencia County, New Mexico;

Deed dated February 14, 1869, from Mucio Chavez and Carmel Vigil de Chavez to M. A. Otero;

87 CLARENCE KEY, of lawful age, being produced, sworn, and examined upon his oath, testified on the part of the plaintiffs as follows:

Direct examination by Mr. O'BRIEN:

Q. Mr. Key, what is your business?

A. Translator; expert Spanish translator of Spanish law papers.

Q. You have had occasion to familiarize yourself with the surveyor-general's office, and the records and papers therein?

A. Yes, sir.

Q. How many years?

A. For nine years, and I was employed there once for six months, and in the last five or six years I have frequent to examine the papers and archives.

Q. Did you ever have occasion to go over all the papers in the surveyor-general's office and make a note of it?

A. Not officially; nor, sir.

Q. By what plan in the surveyor-general's office did you work; what was it you did there?

A. I examined many of the archives and papers down in the surveyor-general's office and compared many of them.

Q. Now, as a matter of fact, what was the practice; from your inspection, what seemed to be the practice of the governor's office in relation to the keeping of the original grants, or of keeping copies of them, or keeping entries of them, when grants were made, as far as you can ascertain from the records?



A. I really am not prepared to say that there was any settled or regular practice in the office of the governors in keeping the papers in the way you refer to.

Q. Well, what was the practice, whether it was regular or irregular?

A. I think it was irregular.

Q. How does it appear to have been done?

A. In some instances in making grants of land, from what I could learn from the archives, the grants were given to the people; the grant itself, that is to say the grant papers, were recorded in books; at other times  
88 the original grant papers appear to have been kept by the governor, and certified copies given to the grantees.

Q. Was there any ever given out of which there was no memorandum or copy kept?

A. I understand that prior to 1713 there were a great many grants given out of which no copies were kept.

Q. What do you know with reference to subsequent time to 1800?

A. I do not know anything particular in regard to that falling subsequent to 1800.

Q. Do you know of any grant having been given and no copy kept in the office of the granting power?

A. I can't say that I do, sir; I can not recollect any; I have not made any particular examination of the grants with a view to ascertaining that fact.

Q. Is there anything to show in the office that the originals were given out and copies kept?

A. I can only say that I know in some instances the grant papers were originally given to the grantees, but I am not prepared to say when that practice was changed, or when the other practice originated.

Q. In some cases the originals were given out and no copy was retained in the office; none appearing there, at least?

A. I really am not prepared to say that no copy of it was kept in the office; I do not think I can answer the question intelligently, sir; I think if you would put it in another light I might; I do not exactly understand it.

Q. Is it not true that in some instances the original grants were given out and the records do not show that any copy was kept; there is nothing appearing in the office showing that any copy was retained there?

MR. REYNOLDS. I object to the question.

THE CHIEF JUSTICE. You may proceed.

A. In the grant made to Juan de Gabaldon, in the grant itself, that grant was made in 1752; the governor and captain general directed the alcalde to return the grant to him after placing the party in possession, in order that a note might be made of it in the proper books; it does  
89 not appear in that grant that the paper was given to the grantee.

Q. I ask you if it does not appear in the various papers that are now in the archives themselves that were formerly filed, and those subsequently filed, that the various grants were given to the original grantee and nothing left in the archives by way of a memorandum of that grant, but the original was given out to the grantee himself?

MR. REYNOLDS. I object to the question because it is leading.

The CHIEF JUSTICE. Possibly a change in the form of the question would not make it leading.

Mr. REYNOLDS. In many cases the only record of the grant existing now in the surveyor-general's office are such papers as have been filed with the surveyor-general by parties in interest since the creation of that office. It has been proven here frequently that in 1837 and some time about 1869-70 both those records were partially destroyed; that is a fact about which there can be no doubt.

The CHIEF JUSTICE. That concession may be made a matter of record.

Q. In your examination of the archives here, Mr. Key, where the original grant document has been returned to the archives, and the testimonio issued by the granting officer and the grant been approved by him, is it not the custom that the instrument will be endorsed to that effect?

A. I have seen such endorsements to that effect.

Q. Is that the general custom where the original has been returned to the archives and the testimonio given to the party when the grant itself provides that that shall be done, given to grantee, and the grant originally has been deposited in the archives, will be endorsed to that effect and the testimonio has been issued and the grant approved and the original returned to the archives for perpetual evidence?

Mr. REYNOLDS. I object to that as not being applicable to the rule to this case.

90 The CHIEF JUSTICE. You may ask the question and we will take it subject to the objection.

A. Yes, sir; that is the general custom.

Q. Is there any distinction between the protocol and the testimonio—what is the distinction between these two?

A. As I understand it, sir, a protocol is a book kept by the notary.

Q. I mean in regard to this grant.

A. I have not examined the papers in this case; I do not know anything about it.

Q. That is all.

Mr. REYNOLDS. That is all.

Mr. O'BRIEN. That is our case.

Mr. REYNOLDS. I desire to offer in evidence the testimony of Bartolome Chavez y Baca, taken before the surveyor-general, in this case, for the purpose of showing contradiction in his testimony.

Mr. O'BRIEN. I object because it is incompetent.

The CHIEF JUSTICE. We do not think the evidence is competent.

Mr. REYNOLDS. Then I ask to recall the witness on behalf of the Government.

The CHIEF JUSTICE. You may do so.

BARTOLOME CHAVEZ Y BACA, being recalled for further cross-examination on the part of the Government, being duly sworn on his oath, testified as follows:

Cross-examination by Mr. REYNOLDS:

Q. Did you testify in this case before the surveyor-general?

A. Yes, sir.

Q. Were you examined at length before the surveyor-general?

A. Yes, sir.

Q. Was not this question propounded to you: "Q. Are you personally acquainted with the children and heirs at law of Bartolome Baca, deceased; and if so, how long have you known them, and where they have lived since your acquaintance with them?" and did you not make this answer:

91 "A. I did not know all his children, but I know all the heirs, and have known them as long as I can remember, they being my kinsfolk. They have all resided always here in the Territory?"

A. Yes, sir.

Q. Was not this question asked you, and did you not make the following answer: "Q. Do you know whether Bartolome Baca, your grandfather, left any last will and testament in writing? If so, do you know where that will is?—A. I do not know?"

A. Yes, sir.

Q. Was not this question asked you, and did you not make the following answer: "Q. Is it not true, upon reflection, that your grandfather left a last will and testament in writing, and did not that will come to your actual possession, and if to your actual possession, did you not deliver it to Manuel A. Otero, or some other person?" and did you not make the following answer?—"A. He may have made such a will, but I know of none, and delivered none to said Otero or to anyone, but did deliver to said Otero the grant for said land?"

A. Yes, sir.

Q. Was not this question asked you, and did you not make the following answer: "Q. How many towns and settlements are they within the boundary of the grant in question, and how long have they been in existence?" and did you not make the following answer?—"A. These are the towns of Torreon, Tajique, and Chilili, and I know of no settlements, though they are said to be some small ones in the mountain. I do not know how long the towns have been in existence, but they were there when I first knew the localities, and were settled after the death of Batolome Baca; unless it be Torreon, as to which town I cannot say?"

A. Yes, sir. I did not say that they were settled after the death of Batolome Baca.

Q. That is all.

Mr. O'BRIEN. That is all.

Mr. REYNOLDS. Your honors please, I offer in evidence the original grant to the town of Manzano, dated 1829, and translation  
92 thereof, which grant has been confirmed.

Mr. O'BRIEN. I object to the same because it has no bearing on this case.

The CHIEF JUSTICE. You may put that in; we will not argue this case now.

Mr. REYNOLDS. I offer in evidence the grant and translation thereof to Nerio Antonio Montoya made in 1831, reported number 51.

Mr. O'BRIEN. Do I understand you to admit that as a valid grant?

Mr. REYNOLDS. I am going on the proof as to the effect

The CHIEF JUSTICE. We suggested a while ago that this whole question would be for argument on the final argument of the case.

Mr. O'BRIEN. I object to the admission of these documents.

The CHIEF JUSTICE. These papers may go in subject to your objections.

Mr. REYNOLDS. I offer in evidence the original grant and translation thereof made to the town of Tejique during the year 1834, Rep. No. 21.

Mr. O'BRIEN. I object to it.

Mr. REYNOLDS. I also offer in evidence the original grant and translation thereof to the town of Torreon, made in 1841.

I also offer in evidence the grant and translation thereof known as the Chilili grant, made in 1841.

I also offer in evidence the grant and translation thereof made in 1845 to Don Antonio Sandoval, sometimes called the Estancia grant.

Mr. O'BRIEN. I object to the admission of all these documents.

Mr. REYNOLDS. If there is to be any question raised as to the genuineness of the signatures to these documents I will prove them by Mr. Tipton.

93 Mr. O'BRIEN. No objection will be raised to the signatures of these documents.

Mr. REYNOLDS. It is admitted that prior to the pretended grant which has been offered in evidence to Antonio Sandoval by the Mexican authorities in New Mexico had made other grants to Antonio Sandoval.

FERNANDO NOLAN, called as a witness on the part of the Government, being duly sworn upon his oath, testified as follows :

Direct examination by Mr. REYNOLDS :

Q. Where do you reside, Mr. Nolan ?

A. Santa Fe, New Mexico ?

Q. What is your age ?

A. Sixty years of age.

Q. Where have you lived during your lifetime ?

A. Well, I have lived here in New Mexico ; for the most of the time I lived at Mora County, New Mexico.

Q. Do you know where what is now described as the Bartolome Baca grant, which lies east of Albuquerque—where it lies generally ?

A. I do not exactly. I heard it there is a certain grant there somewhere in Manzano or Estancia. That is merely hearsay ; I have not seen any papers.

Q. Do you know the general location where the grant is claimed to be ?

A. Yes, sir ; I have been there ; not very well acquainted with the country there, but I have been there.

Q. Whom did you marry ?

A. Why, I married two ladies.

Q. Give their names.

A. The first was Juliana Abujita Nolan ; the second was Agapita Ortiz de Nolan.

Q. Well, is one of them a relative of Bartolome Baca ?

A. Her husband was a grandson.

Q. Husband of whom ; of which one do you mean ?

A. Of the last one.

Q. I will get you to state if you ever received a paper purporting to be a certified copy of the last will and testament of Bartolome Baca, of her, your last wife ?

A. Yes, sir; a will which purports to be the will of Bartolome Baca; it is a copy, certified; said to be a true copy.

94 Q. Do you know where she got it?

A. She got it from his papers—from her husband's papers.

Q. She got all his papers?

A. Yes, sir.

Q. This one was among the number?

A. Yes, sir; her husband's will, grant, and many other papers.

Q. Look at that paper [hands witness paper], Mr. Nolan—it is not all there—and state if that is a part of the paper you have reference to. I will hand you the balance in a few minutes.

A. Yes, sir; that is a part of the paper; I do not see the certificate. Yes, sir; that is a part of it.

Q. Now, Mr. Nolan, take that paper and say whether or not it is whole as delivered to you?

A. That is the same paper I got amongst my wife's papers; the same paper.

Mr. REYNOLDS. I offer this paper with translation thereof in evidence. The object of it is to show that Bartolome Baca, in his will in 1834, in disposing of his property, he did not mention the fact that he owned this grant or any interest in it.

Mr. O'BRIEN. I object to the admission of this document, because there is no proof that it is the will of Bartolome Baca, or that it was ever probated, or ever produced in any court. There is no evidence here what has become of the original, if there ever was one. It is a very singular circumstance that a will of this gentleman's wife's husband's grandfather could have been in their possession for the last sixty years and all the other heirs not heard of it.

The CHIEF JUSTICE. We will consider this objection hereafter.

Mr. REYNOLDS. I will have Mr. Tipton to verify the signatures on this document, and have him testify as to the genuineness of the original signatures.

The CHIEF JUSTICE. What else have you?

Mr. O'BRIEN. I wish to cross-examine Mr. Nolan.

The CHIEF JUSTICE. You may do so.

95 Cross-examination of Mr. Nolan by Mr. O'BRIEN:

Q. Mr. Nolan, you are an attorney at law?

A. Yes, sir; I have been practicing for some time.

Q. Are you a relative of the Antonio Sandoval who claims this grant and the property covered by the Bartolome Baca grant?

A. Yes, sir.

Q. What relationship do you claim to be of Antonio Sandoval?

A. I know the relation by my mother; she told me my grandmother was a niece to him.

Q. Do you consider you have an interest in that grant?

A. My father bought that grant.

Q. Do you inherit from your father?

A. Yes, sir.

Q. Haven't you sold your interest in that grant?

A. Yes, sir.

Q. What interest do you claim now?

A. No ; none.

Q. You claim you have not got all the money ; don't you claim some ; that you have not been paid all the purchase money, and were not to be until the grant was confirmed, and you are still claiming a balance of the purchase money ?

A. I do not care to answer that question until the court requires me.

Mr. REYNOLDS. It is not cross-examination.

The CHIEF JUSTICE. Proceed.

Q. Do you decline to answer that question ?

A. If the court says so I will do it.

No ruling, but the witness proceeds.

A. I claim that a part of that money is due me, my mother, and brothers ; that is, of the sale I made of the Antonio Sandoval grant, which, at the time of the sale, belonged to my mother—considered to belong to my mother—Heracina Nolan.

Q. How much do you claim is due ?

A. It is due me to the amount that was paid me, \$2,500.00.

Q. That is the balance that is due you ?

A. It is a little more due ; twenty-five hundred dollars was to be paid on the purchase money and twenty-five hundred dollars for my expenses and handling the whole transaction.

96 Q. How much is now due you ?

A. I think it is five thousand dollars.

Q. From whom is it due you ?

A. From the Whitney brothers, James P. and Joel P. ; he was representing his brother.

Q. They were the ones to whom the title was made ?

A. Yes, sir.

Q. Was that conditional upon the grant being confirmed by Antonio Sandoval ?

A. No, sir ; it was not conditional ; there was one condition as to twenty-five hundred dollars ; they were to pay me twenty-five hundred dollars, as I said, for my work for handling the thing and doing the work for them, and twenty-five hundred dollars at the end of a suit that had been brought by a man by the name, I believe, of McAfee, I think it was.

Q. And you were never paid ?

A. I have never seen the man since he got into trouble there at Estancia ; I heard he is dead now.

Q. That is one of the defendants ?

A. They are the defendants in this suit ; yes, sir.

Q. Now, in regard to this paper you produced here that your wife gave you and she got it from the effects of her former husband ?

A. She turned me over a lot of papers that she told me she got from her husband, and there was deeds and one thing and another ; I found a good many other papers.

Q. Do you know a man named Gwynn that used to live in this city ; whether he had it ?

A. Probably he had it.

Q. Do you know whether it has ever been out of your wife's possession ?

A. I do not think it has ; it may.

Q. How long have you been married to your present wife ?

A. Little over one year.

Q. From your knowledge, has that paper been in her possession since you have been married?

A. Yes, sir.

Q. She had it when you were married?

A. Yes, sir.

Q. Prior to that time, didn't a man by the name of Gwynn have that paper and offered it here for the sum of six hundred dollars if they would buy it?

A. I do not know anything about it.

97 Q. You have heard that it was hawked around here on the streets, haven't you?

A. No, sir.

Q. Do not know anything at all about it?

A. No, sir; I never heard that it was offered at all; the fact is it is not worth anything; I said to my friend here, I think these things ought to come to light—this will—for the benefit of the ones that ought to have it.

Q. That is all.

Mr. REYNOLDS. That is all.

J. FRANCISCO CHAVES, a witness produced, sworn, and examined on the part of the defendant, United States, testified as follows:

Direct examination by Mr. REYNOLDS:

Q. State your name, age, and residence.

A. J. Francisco Chaves; I reside at Los Lunas, Bernalillo County, New Mexico; I am sixty-one years old, past.

Q. How long have you resided in New Mexico?

A. I might say all my life, except when away at school or on business.

Q. Were you born in New Mexico?

A. Yes, sir.

Q. You are familiar with the country around east of Albuquerque, are you?

A. Yes, sir; I think I can say that I am.

Q. Do you know the general location of what is called the Bartolome Baca land grant?

A. Yes, sir.

Q. How long have you been familiar with that property?

A. Since 1858.

Q. Since that time have you been quite familiar with that country?

A. Yes, sir; I have been.

Q. Did you ever live upon this land grant, or what is claimed to be this grant, and when?

A. Yes, sir; I built a house upon it.

Q. Where?

A. At Ojo del Medio, on the grant that is being mentioned here.

Q. When was that?

A. In 1858.

Q. Was anybody in possession of the Bartolome Baca land grant at that time?



A. No, sir.

98 Q. When was the first time, subsequent to that time, that you heard any claim being made of that property as being the Bartolome Baca land grant?

A. I heard it at that time; the Nerio Antonio Montoya grant covered a portion of it.

Q. Were you notified at the time of any such grant?

A. No, sir.

Q. Did you understand it covered the Nerio Antonio Montoya grant?

A. Yes, sir.

Q. Well, did you know of any of the heirs of Bartolome Baca claiming to own the Bartolome Baca grant, or being in possession thereof, at any time before you testified in the proceedings in the surveyor-general's office?

A. Only their statements to me; the Don Juan Chaves, the father of this witness—that was here, at whose house I used to live before I began to build, showed me the boundaries from his house; I did not go over them at that time, but they told me so.

Q. What was said to you about the Nerio Antonio Montoya grant at the time you first occupied it?

A. It was stated that Mr. Baca and Don Bartolome Baca were very friendly, who had given this Nerio Antonio Montoya a band of five thousand sheep, and he prevailed upon Mr. Don Bartolome Baca to ask for a grant, and he applied for a grant. That is all I know; Mr. Montoya told me.

Q. Didn't you testify before the surveyor-general that you did not know anything about the heirs being in possession of the Bartolome Baca grant, or of their claiming it, except from the records of the surveyor-general's office?

A. Yes, sir.

Mr. O'BRIEN. I object, as it is leading, and he can not impeach his own witness.

No ruling.

Q. Did any of the heirs and legal representatives of Bartolome Baca claim to own any interest in the grant at the time of this matter was pending before the surveyor-general?

A. Yes, sir; they did.

99 Q. Didn't you testify before the surveyor-general in reply to such question that "as to the dead persons I do not know that they ever laid any claims to the grant; the few who had lived upon it, both from their actions and statements, never laid any claim to the grant until within the last six or seven years?"

Mr. O'BRIEN. I object to the question, as it is leading and immaterial; it is a matter about which he testified some other time.

The CHIEF JUSTICE. This question could not be introduced for the purpose of contradicting him about his original testimony, but for the purpose of breaking the force of the testimony at the present time and present recollection of the facts; the Government can not put this witness on the stand to take his testimony with the knowledge in advance of adverse testimony.

A. I did, sir.

Q. You have an arrangement by which you receive the title in case this grant is confirmed?



A. I have, sir.

Q. That is the reason you have not pushed that claim?

A. Yes, sir; I believe I so informed you; I believe that is what I testified to.

Q. And that was what you testified to at that time?

Mr. O'BRIEN. I object to the question, because it is immaterial.

A. Yes, sir.

Q. Did you know at the time the matter was pending before the surveyor-general what grants were claimed to conflict with the Bartolome Baca grant?

A. When I first came here to Santa Fe I did not; I had an idea that it conflicted with the Nerio Antonio Montoya grant, as well as with my own and with the Tajique and Torreon grants.

Q. Any others?

A. That is all that were claimed at that time. Then I asked the surveyor-general's clerk, Miller, to let me see the papers of the grant upon which they relied, and I discovered that the Sandoval grant conflicted.

100 Q. Well, if you were to square it the way your surveyors square grants in this country, would it conflict with the Montoya grant?

A. Well, I do not know that it would conflict; I did not know of any map before or after that time.

Q. Well, if you commence at the northwest corner and run south until you come on a parallel line with Chico Lake, it would take in the Manzano grant, wouldn't it?

A. No; if you will allow me to explain the way I look on it this map is correct. That is Chico Spring, and if am correct, the Torreon Creek would be somewhere about here [pointing to some unknown place to the reporter], and the Manzano grant would extend as far as Torreon grant, as I understand it, which is here. From this point here up to this creek it would take in this domain here and make a triangle, and, of course, up here to the mountain; but I did not have any map before me at that time. The parties who made the opposition at that time wanted to say that the Baca grant came down here to the Abo, which I found out it did not when I examined the documents there.

Q. How many people were here at Manzano in 1858?

A. Manzano was the largest town in New Mexico in 1858; there must have been thirty-six hundred people there at that time; the whole of that country was very prosperous then; a great drouth has prevailed and the condition of the whole country there has been depopulated since then.

Q. How many people in Torreon when you came there?

A. About eight hundred; all of those towns were very prosperous then; the rains were very seasonable and they raised fine crops.

Q. At the time you were here before the surveyor-general, you were here in the interest of the Government, were you not?

A. No, sir; I was here for the Manzano people; they had asked me to attend to their business for them; I had other reasons.

Q. The statements you made were statements you believed to be true at the time, as far as your knowledge went at the time?

A. Yes, sir.

101 Q. That is all.

Cross-examination by Mr. O'BRIEN :

Q. You say at the time you made those statements that you had never seen the grant papers before?

A. I never had until I came here.

Q. Did you know anybody had discovered the original papers?

A. No, sir; not at the time I gave that testimony.

Q. Was that upon the theory that you believed they had no claim and asserted no claim?

A. Yes, sir; just what I believed about it.

Q. You knew all the people living in that neighborhood, didn't you?

A. Well, no; I knew a good many of them.

Q. Did you know any of the older people living there?

A. Yes, sir.

Q. What did they say about this Baca claim as to its boundaries?

A. This witness, whose testimony I heard read here, I knew him very well, and he often told me about this grant claim of Don Bartolome Baca, and they used to keep people off of it.

Q. Did you know at that time Baca?

A. Yes, sir; I paid him two dollars a day to haul stone to build my house.

Q. Was he one of the grand children of Baca?

A. Yes, sir.

Q. He lived at Tajique on the grant, didn't he?

A. Yes, sir.

Q. At that time you were actually engaged as attorney for the people of Manzano, were you?

A. Yes, sir.

Q. You testified about the Manzano grant before the surveyor-general, didn't you?

A. Yes, sir.

Q. How far from the town of Manzano is ?

A. Probably twenty-five miles.

Q. South?

A. Southeast.

Cross-examination by Mr. REYNOLDS :

Q. At the time you testified before the surveyor-general, had the title papers been found of the Bartolome Baca grant?

A. As I said to you a while ago that I had come here with certain purposes, and I asked Mr. Miller, who was the chief interpreter of the surveyor-general's office, if there was any such grant; that I was in doubt about the title, and he then let me have all the papers in the case, and I looked over them, and I told the Manzano people so at the time.

Q. That was the first time that you ever heard or saw any title papers of the Bartolome Baca grant?

A. Yes, sir; when I examined the papers in the surveyor-general's office.

Q. Did you ever hear any of the heirs of Bartolome Baca speak about any title papers?

A. They only said they had a grant and that they had lost the papers; they could not find the papers.

Q. That is all.

Mr. O'BRIEN. That is all.

A. M. BERGERE, recalled on the part of the plaintiffs, testified on direct examination by Mr. O'Brien as follows:

Q. You saw that alleged certified copy of the will, did you?

A. Yes, sir.

Q. Did you have it in your hand at one time?

A. Yes, sir.

Q. You had seen that paper before?

A. Yes, sir.

Q. When and where?

A. I saw it in Juan Gwynn's office in the latter part of December, 1892, or January, 1893.

Q. 1893?

A. December, 1892, or January, 1893; during the legislature.

Q. What was it there for?

A. Juan Gwynn had offered that will to me for sale.

Q. For how much money?

A. For six hundred dollars. I told Mr. Gwynn I would tell him whether I would take it or not.

Q. You examined it at that time?

A. I did.

Q. What did you do in consequence?

A. I told him I did not want it.

Q. What did you do with it?

A. I gave it back to Mr. Gwynn.

103 Q. Whom did he say he represented in that transaction?

Mr. REYNOLDS. I object to the question as it is immaterial.

No ruling.

A. He told me he represented Mrs. Agapita Ortiz.

Q. She is the present wife of Mr. Nolan, is she?

A. Yes, sir.

Q. Well, now, what did he say further in regard to the paper?

A. He told me she needed the money and that he considered it an essential paper in the case. He wished me to buy it, and I declined to take it.

Q. That is all.

Mr. REYNOLDS. That is all.

At this time an adjournment was taken until to-morrow at ten o'clock a. m., being August 29, 1894.

At the hour of ten o'clock a. m. of August 28th, 1894, the court resumed the further hearing of the above-entitled cause, and the following proceedings were had therein in open court:

WILL M. TIPTON, a witness of lawful age, being produced, sworn, and examined on the part of the Government, testified on direct examination by Mr. Reynolds as follows:

Q. Look at this paper, will you please, sir? [Hands witness certified copy of will of Bartolome Baca, which Mr. Reynolds offered in evidence.]

Mr. Tipton, examine that document with reference to the endorsement legalizing the paper for the years 1833-4, and state, if you can, in whose handwriting it is.

A. Each leaf of this document has the same endorsement upon it with reference to the legalization of the paper, and it is in the handwriting of Francisco Saaracino, and each leaf has attached to it his rubric or scroll. He was at one time a                      in this Territory, and filled various official positions.

Mr. O'BRIEN. I object to his making any statement he is not asked.

The CHIEF JUSTICE. We will receive it subject to the objection.

104      WITNESS (continuing). From early in the twenties; I think, also, to the American occupation.

Q. Now, examine the signatures, Mr. Tipton, attached to the certificate, and state fully what you know about each of them, as to their genuineness and who the parties were.

Mr. O'BRIEN. I object to the question, as no proper foundation has been laid for it.

The CHIEF JUSTICE. We will receive it subject to the objection.

A. I am not familiar with the signature of Jose Salazar; the signature of Jose Maria y Baca I think I have seen in the archives, but I have not had time to find the signature with which to compare this one, and consequently I can not make any statements as to its genuineness.

Q. Give me your opinion.

Mr. O'BRIEN. I object to the witness stating his opinion, as he has not been qualified to give an opinion.

The CHIEF JUSTICE. He can answer the question.

Q. The signature of J. de Madariaga I have seen before, and I believe this to be genuine. The signature of Miguel Aragon is the signature of the officer who acted as alcalde in the matter of the Cevilleta or La Joya grant, which was suit No. 55 in this court, and which has been confirmed by the court. This signature of Aragon is genuine, and his genuine signatures occur on the papers in the Cevilleta grant. The signature of Jacinto Sanchez is also, in my opinion, genuine, and other signatures of his will be found upon the original muniments in the case of the Manzano grant, which show that at that time he was acting in the capacity of alcalde of the jurisdiction of Tome. Those are all the signatures attached to this document.

Q. Now, as to the body of that document, Mr. Tipton, what will you say?

A. As to the handwriting?

Q. Yes, sir.

105      A. It is in a handwriting that I have frequently seen, and although I have not had time to search for it very much, I am convinced that the same handwriting is found in the archives of the surveyor-general's office; the handwriting I have frequently seen.

Q. Now, returning to the signature of Jose Maria Baca, do you remember, in your examinations in the surveyor-general's office, where he signed his name?

A. No; I do not think I can state that. I believe that I have seen the signature, but I do not recollect where; in fact, I believe I have seen it a

number of times, but I do not remember on what document it is, and consequently I have not been able to find it in the short time that I had to examine this paper.

Q. That is all.

Cross-examination by Mr. O'BRIEN :

Q. How many times have you seen the name of Jose de Madariaga in the papers in the surveyor-general's office?

A. I could not say how many times. I am certain I have seen the signature there, but I do not know how many times.

Q. Can you give any document on which you have seen it?

A. No, sir; I do not think I can.

Q. Can you state in what capacity he signed any document you have seen?

A. No, sir; I cannot.

Q. In what year was the name of Miguel Aragon, whose signature purports to be signed to the Cevilleta or La Joya grant?

A. I do not recollect the year, but I think it was in nineteen and twenty-two.

Q. In what year does the name of Jose Sanchez appear, or purport to be signed to the Manzano grant?

A. I do not recollect the date of that grant; [after looking at paper] September 25th, 1829, is one, and the other, there are two signatures, dated December 24th of the same year.

Q. Are you acquainted, from your examination of the archives, of papers in the archives of the surveyor-general's office of this Territory, what the practice as to changes of justices of the peace and 106 alcaldes, that is, the length of time they served, before a change was made in the office?

A. No, sir; I am not; I have never paid any attention to it.

Q. From your examination, does it appear that the alcaldes must have been changed every year and a new one replaced from what you have learned, or whether or not any one extended over a period of one year?

A. I could not say that; I have never investigated the subject at all.

Q. That is all.

Mr. REYNOLDS. That is all.

Mr. REYNOLDS. That is the Government's case, if your honors please.

And this was all the testimony that was introduced in the above-entitled cause.

SANTA FE, NEW MEXICO, *October 15th, 1894.*

I hereby certify that the above and foregoing sixty (60) pages contain a full, true, and correct transcript of the proceedings had in open court in the above-entitled cause, the same being No. 58, Eloise L. Berge re et al. versus The United States, for the confirmation of "Bartolome Baca grant."

W. J. McPHERSON,  
*Special Official Stenographer, by order of said  
Court, made August 13th, 1894.*

Testimony taken before the surveyor-general, being in the words and figures as follow, to wit:

In the matter of investigation of private land claim, file No. 123, in the name of Bartolomé Baca for the Torreon tract of land, this cause came on for hearing. Present: Henry M. Atkinson, surveyor-general; David J. Miller, chief clerk, as translator and interpreter, and Samuel Ellison, attorney for grant claimants, when JESUS SAAVEDRA, being first by the surveyor-general duly sworn, on his oath declares:

Question. (By SAMUEL ELLISON, attorney for claimants.) What is your name, age, occupation, and residence?

Answer. My name is Jesus Saavedra; my age is seventy-five years; my occupation is farmer, and my residence is at the town of Manzano, in the county of Valencia, in the Territory of New Mexico.

Q. Are you acquainted with a tract of land known and called the Estancia grant? And if so, please state where it is situate and its boundaries, if you know them.

A. I know such a tract of land. It is situate in the county of Valencia, in the Territory of New Mexico. Its boundaries are on the north the Cibolo Spring, on the east the Cerro del Pedernal, on the south the Cuervo Spring, and on the west the summit of the mountain.

Q. Did you ever live upon this said tract of land? If so, for how long?

A. I lived on the land as a servant in the house of the owner, Bartolomé Baca, from the year 1819 until he died—that is to say, for about eighteen years.

Q. Did said Bartolomé Baca have upon the said tract any improvement, and did he have thereon any live stock?

A. He had there a log house and some corrals, and he had some 40,000 head of sheep, 300 mares, and 900 head of cattle on the premises. The house was occupied by the sons of said Bartolomé Baca, to wit, José Baca, Juan Baca, and Manuel Baca.

Q. Were you present when Bartolomé Baca was placed in possession of the said tract of land? If so, state by whom he was placed in possession.

A. I was present, and the act of possession was executed by one José García de la Mora, alcalde. This was in the year 1819, when I went to live on the tract as stated.

Question. (By JOHN GWYN, representing the heirs of Gervacio Nolan, deceased.) Do you know the springs called the Estancia Springs? If so, please state how far and in what direction they are from the Pedernal Hill.

Answer. I know the springs named, and they are southward from the said Cerro del Pedernal, about five leagues distant.

Q. What is the direction and distance of the Estancia Spring from the Cibolo Spring?

A. They are about fifteen miles to the southward.

Q. What is the distance between the Estancia Springs and the Cuervo Spring?

A. About seventeen or eighteen miles.

Q. Do you know the woods called the Cibolo woods? And if so, please state the direction and distance of that point from the Estancia Springs?

A. I know the place called the Cibolo woods, and it is about fifteen miles from the Estancia Springs to the northward.

Q. What is the distance and direction of the Cerro del Pedernal from the said Cibolo woods?

A. The Cerro del Pedernal is five or six leagues to the eastward of the Cibolo woods.

Q. What is the distance of the mountain west of the Estancia Springs from those springs?

A. It is about seventeen or eighteen miles from those springs to the foot the mountain. From the foot of the mountain to its top there is probably a distance of eight miles.

Q. How do you know the boundaries of this tract as stated by you?

A. I know them as a servant of said Bartolomé Baca working upon the premises.

Q. Who were present at the time the act of possession was executed for this land as stated by you?

A. One of them was Manuel Alires, of Old Mexico; Nava Nunes, of Sonora; Francisco Galves, a Spaniard; Papias Guerra, of Sonora; José Maria Marquez, who was the caporal or chief stock herder of Bartolomé Baca; Luis Rios, a cattle herder; Antonio Marquez, a cattle herder; Juan Luera, a cattle herder; the alcalde, José Garcia de la Mora, and myself. All these persons except myself are now deceased.

Q. What is the distance and direction of the Estancia Springs to the salt lakes?

A. The salt lakes are to the eastward of the Estancia Springs, about two or three miles.

Q. What is the distance and direction of the Estancia Springs  
109 to the town of Manzano?

A. The Estancia Springs are about six leagues to the northward from the town of Manzano.

Q. What is the distance and direction of the Crow Spring or Ojo del Cuervo from the town of Manzano?

A. The spring is four miles to the north of the town.

Q. Can you read and write?

A. I can read only. I never could write, but can read a little, both print and manuscript.

Q. In what year did Bartolomé Baca die?

A. I do not know. He died at the little town of San Fernando, near the town of Tomé, in New Mexico, where he was then living.

Question by the SURVEYOR-GENERAL. In what year was the juridical possession given by the alcalde?

Answer. In the year 1819.

Q. In what month?

A. I am not sure whether in the latter part of October or the former of November.

Q. Have you any interest in this grant?

A. I have none.

Q. How many and what towns and about how many inhabitants are upon this tract?



A. There are the towns of Tajique and Torreon, the former having about eighty and the latter about fifty families, and these are about all the inhabitants there are upon the grant.

Q. What is the name of the mountain constituting the west boundary of the tract?

A. It is called by some the Sierra Grande and by some the Sierra del Manzano.

Q. On what part of or at what place upon this tract did Bartolomé Baca live?

A. He resided himself at the little town of San Fernando before mentioned, but he had his sons living upon the grant at the place thereon called the Estancia, where he kept his live stock and had his hacienda or stock farm, the spot (Estancia) being about 15 miles east of Tajique.

Q. In the little town of San Fernando where Baca resided and died upon this tract of the Estancia?

A. It is not, but some 12 or 13 leagues to the west on the Río del Norte and on the other side of the mountain from the tract.

Q. Did Bartolomé Baca reside upon the tract at any time?

A. He never resided thereon himself, but regularly made visits to his rancho or hacienda there to see his sons and look after his property there.

Q. Was Bartolomé Baca present at the time the alcalde executed possession?

A. He was present to receive the possession.

Q. Have any of Baca's sons resided upon the tract since his death?

A. Manuel and José, his sons, died before he did, and the other son, Juan, died soon afterwards in California, but he lived a while upon the grant after the death of his father.

Q. Is the Estancia you speak of where the sons resided the same place as the Estancia Springs?

A. It is.

Q. Do you know of any other grant covering portions of this Estancia grant and existing at the time the Estancia grant was made?

(Question objected to by Mr. Ellison for claimants for the reason that no grant has been presented in this case covering the whole or any part of the grant now under investigation. Objection overruled by Sur. General.)

A. I know of none.

Q. Do you know of any grant subsequent to the Estancia grant for any portion of the land covered by said Estancia grant?

A. I know of none.

Q. Have you ever known of any grant to the town of Tajique or the town of Torreon?

A. I have never known of any grant to either of those towns.

Redirect examination by Mr. Ellison. Were the sons of Bartolomé Baca you mentioned as occupying the Estancia tract emancipated children, or were they yet under paternal control when they lived upon the tract?

A. Two of the sons, Manuel and Juan, were married, and one, José, was single.

Q. Did you ever hear or know of any claim to the tract of land of the Estancia here in question adverse to that of Bartolomé Baca?

A. I never have.



Q. How old was the single son, José Baca, at the time the act of possession was executed?

111 A. I can not say exactly, but he was born about the close of the eighteenth century.

his  
JESUS X SAAVEDRA.  
mark.

Subscribed and sworn to before me this Sep. 13, 1878.

HENRY M. ATKINSON,  
*Surveyor-General.*

MIGUEL LUCERO, of lawful age, having been first duly sworn, deposeseth and saith:

Question. (By Mr. ELLISON.) State your age, occupation, and place of residence?

Answer. My age is eighty years; my occupation is farmer and stock raiser, and my residence is at the town of Manzano, Valencia County, N. Mexico.

Q. Are you acquainted with a certain tract or grant of land in the county of Valencia, in this Territory, known as the Estancia tract? If so, please state where it is situate and what are its boundaries.

A. I know such a tract. The boundary on the north is the Cibolo Spring, on the east the Pedernal Hill, on the south the Laguna del Cerro, and on the west the Crow Spring. I have known the tract of land described since the year 1816.

Q. Who has been the reputed owner of the land since you have known it?

A. Since the year I mentioned (1816) I have never known for the tract any other owner or claimant than Bartolo Baca.

Q. Did you ever live upon the tract of land in question? If so, for how long?

A. I have always lived at Manzano, but have often been upon the tract, sometimes remaining there during a winter or summer acting as mayor domo of stock for Bartolo Baca. I have frequently rounded up and counted his stock, reporting to him their number, condition, and so forth. I was thus employed about nine years.

Question by Mr. Gwyn. How did you get your information that Bartolomé Baca was the owner of said tract of land, and how did said Baca become the owner thereof?

Answer. I know so because I was present at the time the act of possession was executed to him by the alcalde José Garcia de la Mora, who was authorized to give possession by Facundo Melgares, then governor of New Mexico.

Q. How do you know the boundaries you have stated?

112 A. Because they were shown to me by Bartolo Baca as his boundaries.

Q. Did you ever remain on the tract after the death of said Baca?

A. I was there some eight days about two months after the death of Baca, gathering up the cattle and counting them, which having done I reported their number and condition to Doña Luz Chaves, the surviving widow of the deceased Bartolo Baca, who thereupon placed another mayor domo in charge of the stock. Baca died in the year 1835.

Q. Do you know a place called the Monte del Cibolo, or Cibolo woods, and the spring of the Estancia?

A. I know both places.

Q. In what direction and how far from the Estancia Spring is the Cibolo woods?

A. They are about two leagues apart, and the wood is northwestward from the Estancia Spring.

Q. What is the distance and direction of the Pedernal Hill from the Estancia spring?

A. The Pedernal Hill from the Estancia Spring is about five leagues to the northeast.

Q. In what direction and what distance from the Estancia Spring are the salt lakes?

A. It is about four miles to the east.

Question by the surveyor-general. In what year and what month was Baca put in possession?

Answer. In the year 1822, and I think in the month of April.

Q. Do you know it was this particular tract that he was then placed in possession of? If so, how do you know it?

A. I know it was this identical tract, because I was there present.

Q. Did the alcalde at the time go to the different boundary objects, and what did he do at the time of executing the possession?

A. The alcalde with his finger pointed out the respective boundaries, and afterwards took the cordel, a rope, and measured to them.

Q. Did Bartolomé Baca ever with his family live upon this tract of land?

A. He did not, but lived with his family at San Fernando. He had his stock at the Estancia rancho, however.

Q. Do you know of his claiming any other tract of land at that time and on which he pastured his herds?

A. I do not, except the land he had at San Fernando, the place of his residence, where he also kept some stock. He was rich and had  
113 considerable land at San Fernando which he cultivated and whereon he grazed his stock. The land he had at San Fernando he acquired by purchase, as I am aware, having seen him purchase some fields from various individuals, among whom were one Francisco Moya, Santiago Gonzales, José Lucero, these being those vendors I can now remember, though there were others. These purchases were made about the year 1830.

Q. Do you not know that Baca claimed under grant another tract of land about the time this grant was made, or subsequently?

A. I do not know of any other such claim by him.

Q. Have you any interest in this grant?

A. I have none.

Q. Are there any mines or minerals upon this tract?

A. There are none that I am aware of.

Q. What towns and settlements, if any, are upon this grant?

A. There are the towns of Torreon and Tajuque.

Q. Under what title do the inhabitants of these towns claim title to their lands?

A. I do not know.

Q. How many inhabitants are in the respective towns named, and how many altogether on the grant?

A. The two towns each have about 40 families, and these are about all the inhabitants there are upon the tract.

his  
MIGUEL X LUCERO,  
mark.

Subscribed and sworn to before me this September 13, 1878.

HENRY M. ATKINSON,  
*Surveyor-General.*

MARIANO TORRES, having been by the surveyor-general duly sworn, on his oath declares:

Question. (By Mr. ELLISON.) What is your name, age, occupation, and residence?

Answer. My name is Mariano Torres; my age is seventy years; my occupation is farmer and shoemaker, and my place of residence is at Las Tablas, in the county of Lincoln and Territory of New Mexico.

Q. Are you acquainted with the tract of land known as the Estancia grant? If so, state its boundaries, if you know them, and all you know about it.

Answer. I am, and have known the place all my life. Its boundaries are on the north the Cibolo Spring, on the east the Pedernal Hill, on the south the Crow Spring, and on the west the summit of the mountain.

114 The land has always been known as the property of Bartolomé Baca, now deceased, and it was occupied by him until his death, which occurred many years ago. The land lies in the present county of Valencia and Territory of New Mexico.

Question. (By Mr. GWYN.) Are you acquainted with the points called the Monte del Cibolo and the Estancia Springs? If so, what is their distance apart and their direction one from the other?

Answer. I know the points mentioned, and they are some four or five leagues apart, and the Monte del Cibolo is to the north of the springs.

Q. What is the distance and direction of the salt lakes from the said Estancia Springs?

A. The salt lakes are eastward scarcely two miles from the Estancia Springs.

Q. Are these salt lakes within the limits of the Estancia grant you have described?

A. They are.

Q. What is the distance from Estancia Springs to the Pedernal Hill, and what direction is said hill from said springs?

A. The distance is five leagues, somewhat more or less, and the hill is east of the springs.

Q. What is the direction and the distance of the Crow Spring from the Estancia Springs?

A. The Cuervo or Crow Spring is to the south, and is three leagues distant at furthest.

Q. What is the distance from the Estancia Springs westward to the foot of the mountain?

A. Perhaps some four leagues, and as the mountain is a high one it is at least another league to the mountain summit.

Q. Question. (By the SURVEYOR-GENERAL.) What is the name of the mountain which forms the west boundary?

A. Answer. They call it the Manzano Mountain.

Q. Where did you live when you first knew this tract of land?

A. At San Fernando, a neighbor of the said Bartolo Baca, where I continued to reside until the year 1846.

Q. How did you become so well acquainted with the boundary calls of of this grant?

A. Because in the year 1821 I was a stock herder with Baca's mayor domo, José Maria Marquez, and Baca's sons stated the boundaries to me, and it was understood by all the people at Torreon and the vicinity that the boundaries I have mentioned were the boundaries of this grant, and it was so understood and stated also by the people along the Rio Grande in the Rio Abajo.

Q. Did Bartolomé Baca ever live upon this grant with his family?

A. He did not.

Q. How long were you on this grant as herder?

A. About five or six months, permanently, but at other times I was frequently out at the hacienda or stock ranch, accompanying Baca's sons to the place and remaining some days with them there, Baca residing at his home at San Fernando.

Q. What was the population of Torreon at that time and what is it now?

A. There was then no town there, but only a ranch, and the ranch was Baca's property. The town of Torreon now has a population of more than twenty-five families. Baca, before he died, permitted several families to go and occupy the place (Torreon), and it is in this way that there is now a town at that place, he inviting the families to go and live there on account of the protection their presence there would afford to his interests there against the wild Indians. He erected a torreon, or blockhouse, at the place, whence comes the name Torreon for the town now there. There was then no other rancho or settlement upon the tract.

Q. What other towns, if any, are there upon the Estancia grant?

A. There is upon the tract the town also of Tajique; the town of Chilili is near the west boundary and may be either within or without the grant.

Q. How far is the town of Torreon north of Crow Spring?

A. About one mile.

Q. By what right did Baca claim this land?

A. It was asked for by him and given to him as a grant.

Q. When was Ajaque first settled?

A. I do not remember; it was probably 34 or 36 years ago. It was settled by poor Mexican people, such as small farmers, laborers, and so forth.

Q. Did Bartolomé Baca own any land at San Fernando or at any other place outside of the Estancia grant?

A. He did; he owned lands at Peralta, Joya de Cervilleta, and at Enlames, and at San Fernando he had a great deal. These lands were held by him by purchase, except a piece of land granted him at San Fernando, I believe, by the Government.

Q. Have you any interest in this claim?

A. I have none.

his  
MARIANO X TORRES,  
mark.

Subscribed and sworn to before this September 13, 1878.

HENRY M. ATKINSON,  
*Surveyor-General.*

JESUS SAAVEDRA Y ROMERO, being by the surveyor-general first duly sworn, on his oath declares :

Question. (By Mr. CHAVES.) What is your name, age, occupation, and place of residence?

Answer. My name is Jesus Saavedra y Romero; my age is eighty-four years; my occupation is farmer; and my place of residence is Manzano, Valencia County, New Mexico.

Question. Were you present at the ayuntamiento of Tomé at the time that action was taken on the petition of the Manzano people for a grant of land?

(Mr. Catron objected to the question, and objection overruled by surveyor-general.)

A. I was. It was in the year 1829.

Q. What do you know in reference to any surrender or cession of land made by Bartolomé Baca in favor of the people of Manzano?

A. After the boundaries of the Manzano grant were established Don Bartolomé Baca, sympathizing with the people of Manzano, conceded to them all the land within those boundaries with the exception of his (Baca's) cultivable land.

Q. What do you understand to be the north boundary of the Manzano grant?

A. The Torreon Creek.

Question by the surveyor-general. Have you any knowledge of Bartolomé Baca's having surrendered any other portion of the grant in question, or all of it?

Answer. I know of no other surrender by him than that to the people of Manzano.

Q. Then Baca retained his claim to the remainder of the land  
117 granted him, did he?

A. Yes, sir.

his  
JESUS SAAVEDRA X Y ROMERO,  
mark.

Sworn to and subscribed before me this January 8, 1879.

HENRY M. ATKINSON,  
*Surveyor-General.*

TERRITORY OF NEW MEXICO, *County of Santa Fe:*

In the matter of private land claim No. 123, filed in the office of the surveyor-general of the Territory of New Mexico, in the name of Bartolomé Baca for a certain tract of land in the county of Valencia, in said Territory, known as the Torreon tract.

Testimony taken in said matter by F. W. Clancy, clerk of the U. S. district court for the first judicial district of said Territory, in pursuance of

authority from Henry M. Atkinson, surveyor-general of said Territory, under date of December 2, 1879, which is hereunto attached :

SANTA FE, N. M., Dec. 3, 1879.

Present, Samuel Ellison and Henry L. Waldo, counsel for claimants ; John M. Gwyn, counsel for protestants.

David J. Miller, chief clerk of the surveyor-general's office, in charge of the papers in the case, brought by him from the files of the surveyor-general's office.

CLEMENTE CHAVES, being duly sworn, deposes and says that his name is Clemente Chaves ; that he is sixty-nine years of age ; that he is by occupation farmer and sheep raiser ; that he lives in Tomé, county of Valencia, Territory of New Mexico ; that he has lived in the county of Valencia all his life ; that he is acquainted with the grant known as the Bartolomé Baca grant, or the Torreon grant ; that he first knew this tract of land in 1822 ; that at that time his father was engaged in pasturing sheep on that side of the mountain, and he (his father) took him to this tract of land ; that he was acquainted with Bartolomé Baca from the year 1816 up to the year 1833 or 1834, when he died ; that he knows that Bartolomé Baca occupied the land in question, the Torreon grant ; that he occupied it with his herds of sheep, cattle, and horses, and that he had corrals there ; that he (Baca) was in occupation of it in the year 1822, when he (witness) was there ; that he (witness) does not know whether Baca lived on the land in question or not ; that Baca lived in San Fernando ; that he saw Baca there on the land in question with his peons ; that his (witness's) uncle was chief overseer of Baca's lands, and lived at Manzano with his family ; that he saw Baca on the land in question in the month of April, 1822, but does not know whether Baca remained there during the month of April or not ; that he heard that Baca went to the tract in question in 1821 ; that he has no positive recollection of seeing Baca on the land after the year 1822 ; that the Navajos compelled Baca and others to leave that part of the country and to bring their herds down to the vicinity of Abo Pass ; that the Navajos were killing men and stealing stock in that neighborhood ; that up to the time of his death Baca was the recognized owner of the grant ; that up to the year 1833 Baca had herds upon the grant, but after that time he had none there, they having been destroyed by the Indians ; that between 1822 and 1833 the Indians were part of the time peaceable, and at other times they were at war for years together in that part of the country as well as in all parts of the Territory ; that Bartolomé Baca had sons and daughters, and that they survived him ; that after the death of Baca he never knew of any of his (Baca's) children occupying the land ; that he (witness) was senator in the Territorial legislature in 1862, and that he was sheriff of the county of Valencia in 1849 or 1850, and has also been justice of the peace.

Cross-examined by Mr. GWYN :

That he does not know of Baca's having any stock but his own in his charge between the years 1822 and 1833 ; that Baker had a large sheep herd of his own, and also many horned cattle, as he purchased the calves of the tithes of the church ; that it was the custom of the people generally to pasture their stock anywhere they thought best, but that this land in question was recognized as the ranch of Don Bartolomé Baca ; that it is

about twelve miles from San Fernando to the grant in question ; that there is a mountain range between San Fernando and the grant of Torreon which has no particular name, but is called the big mountains of Valencia, although there are parts of the range which have their distinctive names ; that San Fernando is on the west side of the mountain on the Rio Grande del Norte ; that Torreon is on the east side of the mountain ; that he does not remember in what year Bartolomé Baca abandoned the grant in question ; that in 1829 Felipe Montoya, Francisco Moya, Antonio Chaves, Juan Cristoval Sanches, and others took possession of El Torreon, leaving the ranch of Bartolomé Baca, where he had his sheep and corrals, to him ; that Baca occupied, as he understood, about three hundred varas in width from east to west and from north to south, he does not know how far, to the boundaries of the grant ; that so far as he knew, Baca claimed no more than three hundred varas ; that these three hundred varas were under cultivation for a distance of about four hundred varas from north to south ; that he thinks it was in 1829 or in 1830 that Baca had this land under cultivation, and perhaps earlier also ; that the persons he has mentioned, according to his understanding, came in by consent of Bartolomé Baca, who reserved the tract above referred to of three hundred varas to himself for cultivation, and also the balance of the tract.

Adjourned until to-morrow morning at ten o'clock.

SANTA FE, N. M., Dec. 4, 1879.

Met pursuant to adjournment at ten o'clock.

Present, the same as upon yesterday.

Cross-examination of Clemente Chaves by Mr. GWYN resumed ;

Witness says that the sons of Bartolomé Baca were José, who died before his father, and Juan and Manuel, who survived him ; that he is informed that Juan died in California and Manuel died in Tomé in 1833 ; that the daughters of Bartolomé Baca were Manuela, who died here in Santa Fe last year ; Rita, who died in Tomé after the death of her father ; Ana Maria, who also died in Tomé, he thinks, about the year 1866, and Lugarda, who resides, he believes, at Puerto de Luna at present ; that all these daughters were married ; that Manuela was married first to Cristoval Torres, and after his death to Miguel Sena, he thinks, the father of Jesus Sena, but witness does not recollect his name with certainty ; that Rita married Gregorio Sanches ; that Ana Maria married Juan Chaves ; that Lugarda married José Luna ; that only one of the husbands of these daughters is now living, and that one is José Luna, unless he has died lately ; that Cristoval Torres, as he has been informed, died in Santa Fe, but he is not certain ; that Torres lived here in Santa Fe at the time of his death ; that Miguel Sena died here in Santa Fe in the year of the revolution, he thinks in 1837, when Perez was killed ; that he believes that Gregorio Sanches died here, but he is not certain, although he lived here ; that Gregorio Sanches was father of Pedro Sanches, the constable here ; that Juan Chaves died in Tomé about the year 1866, to the best of his recollection ; that he is acquainted with the Chico Spring in the county of Valencia, which lies to the south of the Estancia, but that there is another Chico Spring, as he has been informed, elsewhere, of which he has no knowledge ; that he has but a limited knowledge of distances, but he should judge that this Chico Spring is between three and five leagues from the Estancia.



At this point on motion of Mr. Waldo, objection being made thereto by Mr. Gwyn, the hearing was postponed until two o'clock this afternoon in order to obtain an interpreter.

DEC. 4, 1879—2 p. m.

Hearing resumed, pursuant to adjournment.

Present, the same as in the morning, with the addition of Mr. Luis Felsenthal, who was sworn to act as interpreter.

Cross-examination of Clemente Chaves by Mr. GWYN resumed :

Witness says that Bartolomé Baca died in San Fernandes ; that there were two daughters living near Baca at the time of his death ; that there was another daughter living here in Santa Fe, but he did not see her at the time of her father's death ; that these three daughters and one son, who was then absent in California, were the only children of Bartolomé Baca who were living at the time of his, Baca's, death ; that this son who was in California has never, to his knowledge, returned to New Mexico ; that Baca's wife, Doña Luz Chaves, took charge of his property after his death ; that Baca's wife, Doña Luz, is now dead ; she died at San Fernandes, but at what time he does not recollect ; that when she died, the late Juan Chaves, her son-in-law, appeared to have charge of her property, as he saw him engaged in looking after the business of the estate, but he does not know positively about this ; that of the last will and testament of Bartolomé Baca, his widow, Doña Luz Chaves, took charge, and of that of Doña Luz Chaves, her son-in-law, Juan Chaves, took charge, as much as he knows ; that when Juan Chaves died, his wife, Maria Baca, took charge of his effects and property ; that she is now dead, and has been for over ten years, he is not very certain, but thinks she died in 1866 ; that when she died, her son, Bartolomé Chaves, took charge of her effects and property ; that Bartolomé Chaves lives at Belen.

Redirect examination by Judge WALDO :

Witness says that when Felipe Montoya and Francisco Moya and others took possession of that land they left to Bartolomé Baca three hundred varas for his own use, to cultivate or to rent out to others for his own use ; that those whom he mentioned yesterday, and José Maria Baca, Eulogio Sais, and others, whom he can not remember, took possession of the remainder of the grant ; that Felipe Montoya and Francisco Moya, with others, were the principal claimants of the lands of the grant ; that they made application for the land, he thinks, to Antonio Sandoval, who was justice of the first instance ; that he yesterday did not say anything yesterday about Bartolomé Baca's occupying the grant in question in the year 1828.

(The foregoing testimony having been read over to the witness, he desires to correct his testimony, on page 4, so that it shall state that he was senator in the legislature in 1864 and 1865, and upon page 7 so that it shall state that of the sons of Bartolomé Baca, José and Manuel died before their father, and that Juan, who went to California, survived him.

CLEMENTE CHAVES.

Subscribed and sworn to before me this 4th day of December, 1879.

F. W. CLANCY, Clerk.



MATIAS SANCHES, being sworn, says that his name is Matias Sanches; that he is seventy-three years old; that he is a laborer by occupation; that he lives in Tajique, county of Valencia, New Mexico; that he has lived there for the last forty years; that he has lived in the county of Valencia all his life; that he was acquainted with Bartolomé Baca in his lifetime; that he is acquainted with the grant known as the grant of El Torreon or the grant of Bartolomé Baca; that he first knew the grant in the year 1823; that he first visited the land of the grant in the year 1822; that at that time he took some animals to El Estancia to turn them over to the overseer of Bartolomé Baca; that the overseer of Baca was there at that time, taking care of the ranch and of the sheep, cattle, and horses of Bartolomé Baca; that he saw Bartolomé Baca there once with his sons, but he heard that he went there often; that he was at the ranch of Baca after 1822; that he went there frequently in the fall to take animals there belonging to Baca, but he can not remember in what years.

Cross-examination by Mr. GWYN:

Witness says that Bartolomé Baca owned the herds which he had at the ranch above referred to; that Baca collected the tithes of the church, but that he does not know what he did with them—he had them there in his herd; that he collected cattle and sheep for the tithes and sent them to his herds; that he does not recollect the exact time when Baca abandoned the grant, but it was when the Indians were very bad, killing his herders and the herders of others; that the people living on the Rio Grande were generally in the habit of herding their cattle and sheep in the section of country where their grant is situated, and when the Indians invaded the country the people with the herds would send word to the towns on the river, and then a number of persons would be selected to go out and fight the Indians, but frequently the Indians would succeed in escaping, taking the stock off with them; that the other persons who herded their stock there had the same right as Bartolomé Baca and even if they had not they would have gone to protect Baca; that of Baca's children four daughters survived their father, and that one of his sons, Juan, went to California before his father's death, and he does not know whether this son died or not; that he does not know how long it was before Baca died that he abandoned the grant; he does not recollect how long it was; that Baca, even after he abandoned the ranch, always kept his herds in the same neighborhood, and when the Indians were away he went back to his ranch; that he does not know how much land Baca claimed in his ranch; that he only knew the ranch, and he did not know how much land Baca had; that he does not know the Chico Spring, for, although he has heard it mentioned, he has never been to it; that the Chico Spring which he has heard of is near the salt lake, but that he has never had the curiosity nor opportunity to go there, although he has heard from travelers and others that it was near the salt lake and near the Estancia.

(Objection made by claimants' counsel to all this testimony on the ground that it was hearsay.)

That he heard of this Chico Spring from people who lived in that neighborhood, and who lived on the Rio Abajo, and all who went to the salt lake, as they went to this spring for water, it being on the road to the salt lake; that the people of Valencia County generally pastured their

stock on this grant, in all years, and that they never failed in so doing; that everybody went to that neighborhood even from as far as Albuquerque, to pasture their stock, to water them at La Estancia, and that they had equal rights there.

(Objected to by claimants' counsel on the ground that their witness is not competent to testify as to what the rights of the people were, although he might speak as to their customs.)

That he does not remember who were the first settlers of Torreon; that he lives a little more than half a league from Torreon.

his  
MATIAS X SANCHES.  
mark.

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Witness:

LOUIS FELSENTHAL.

Subscribed and sworn to before me this 4th day of December, 1879.  
F. W. CLANCY, Clerk.

CLEMENTE CHAVES, being by the surveyor-general duly sworn, on his oath declares:

Question. (By F. M. BARNES as United States attorney.) What is your age, residence, and occupation?

Answer. My age is seventy years, my residence is near Tomé, in the county of Valencia, New Mexico, and my occupation is farmer.

Q. How long have you resided where you now do, and how long in the Territory of New Mexico?

A. I have resided in the Territory since I was born, in 1810, and have resided where I now live since the year 1833, except 3 years I lived at Tajique.

Q. Did you know Bartolomé Baca in his lifetime, and if so how long did you know him, how close did you live to him, and when did he die?

A. I did know him from the time of my earliest recollection until he died in the year 1834. In my early age before I went to Tomé and when I lived at the town of Valencia, Baca lived at San Fernando, and the distance between these two points is about four miles.

Q. Are you acquainted with the land grant known as the Bartolomé Baca grant, now in contest in this case, and if so, how long have you known it, and how close have you lived to it?

A. I know the grant named, and have known it since the year 1819, and lived at the town of Tajique, in the immediate vicinity, three years, the town of Tajique being within a league from the grant boundary.

Q. Did Bartolomé Baca, referred to by you, ever live upon or within the boundaries of said grant?

(Question and answers objected to by claimants' attorneys for the reason that the question called for facts which have already been testified to by this same witness on an examination in this same matter, and he has been cross-examined upon this same subject, the whole of his testimony with reference to this matter being on file in this case; the Government nor private individuals acting for the Government have no right to recall and examine a witness about any matter about which he testified while on the stand in the same case.)

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A. I never saw him there except when he went there seeing about his live stock there.

Q. Where did he have his residence whilst you knew him and where did he die, on or off the grant?

A. At San Fernando, where he died, that place being in the same county the grant is in, but not upon the grant.

Q. Are there any minerals upon the grant in question?

A. I do not know—am not aware of any.

(The foregoing question and this answer objected to by the attorneys for claimants for the reason that it is not pretended that the grant in question is a mineral grant and whether or not there is mineral on the same has no effect upon the validity or invalidity of the title in question: the surveyor general can only inquire into the validity of the original title and has no right to determine whether there is mineral on or off the grant any more than he has to determine whether the Pope wears green clothes or not.)

Q. Do you know anything about other persons than Bartolomé Baca or his heirs living within the grant in question and towns being built thereon other than by Baca or his heirs? If so, name the towns and how long they have been built.

(Question and answer objected to by claimants' attorneys for the reasons given in the objections to then preceding interrogatories to this witness and for the reason that this is an investigation solely for the purpose of determining whether the original grant made to Bartolomé Baca passed the title from the Government of Spain to him, and if it ever was valid the only way in which the Government of the United States could question it would be to show that there had been a legal proceeding under either the Spanish or Mexican Government against this property by way of denouncement and that on such proceedings said Bartolomé Baca had been decreed to have forfeited his rights, and in that case the Government could not even then claim it as wrong, such proceedings must be proven by the official record thereof. If other parties have lived upon the grant in question

125 that would not cause the property to revert to the Government when it had been once separated from the public domain. Such parties might with the lapse of time acquire title by prescription, but the surveyor-general under the law conferring jurisdiction on him in this case has no right to pass upon any such title or any other title besides that of the Government in conflict with the title in question.)

A. I do know of others than Baca and his heirs living upon the grant, and about a town erected on the tract by persons other than by Baca and his heirs, and the town upon the grant is called the town of Torreon, which I was informed was settled by persons by invitation or permission of Baca, and I know of no other town upon the grant.

Adjourned over to nine o'clock tomorrow morning.

NINE O'CLOCK A. M., July 13.

Cross-examined by MR. BREEDEN and MR. CATRON for claimants:

Question. Were you acquainted with any of the heirs, children or descendants, of Bartolomé Baca?

Answer. I was.

Q. Were you well acquainted with Bartolomé Baca in his lifetime?

A. I knew him well, personally.

Q. State whether or not, if you know, Bartolomé Baca claimed to be the owner of the property in question in his lifetime, and state, if you know, by virtue of what right or title he claimed.

A. He did claim the property as his own, and claimed under a grant made to him in the year 1819 by Governor Facundo Melgares.

Q. State, if you know, whether the heirs of Bartolomé Baca after his death claimed to be the owners of the property in question, all or any of them.

A. All the heirs so claimed.

Q. State whether or not during the life time of Bartolomé Baca after the year 1819 the property in question was recognized and respected by all persons as the property of Bartolomé Baca.

(The attorney of the United States objects to the foregoing question or any answer the witness may give thereto upon the ground that said question is leading, illegal, and indicates to the witness the desired answer, and is not a cross-examination upon any matter upon which the witness  
126 has been examined in chief.)

A. It was.

Q. State, if you know, whether the property in question after the death of Bartolomé Baca and up to the time of the purchase by Otero was recognized and respected by the people generally and by those living thereon and in the vicinity thereof in particular as the property of anyone. And if so, of whom?

(The attorney of the United States objects to all the last foregoing question except the latter part thereof, because the same is leading, illegal, and indicates to the witness the desired answer, is new matter upon which the witness has not been examined in chief, and the answer to said question is also objected to.)

A. It was during that time recognized and respected as the property of the heirs of Bartolomé Baca.

A. During the lifetime of Bartolomé Baca, at how many different places on the property in question did he have ranches?

(The attorney for the U. States objects to all the foregoing question, because the same is leading and illegal and indicates to the witness the desired answer, is new matter not inquired of in chief, and assumes that Bartolomé Baca really had ranches upon the land in question; and furthermore, the claimants in this case examined said witness upon the matter in his former deposition referred to in the above question.)

A. He had ranchos at the Torreon and at the Estancia; that is, at the Torreon Spring and at the Estancia Spring, these being the only places where I saw such ranchos.

Q. You stated in your direct examination that you knew of other persons than Baca and his heirs living upon the property in question and about the town of Torreon, being erected thereon by other persons than Baca and his heirs. Now state if those other persons did not so live thereon and build said town through and by the direct consent and permission of Bartolomé Baca in his lifetime.

A. I was informed by such persons, many of whose names I could mention, that they were there by consent and permission of said Baca.

Reexamined. (Question by U. S. ATTORNEY.) Give the names, if you can, of the heirs of Bartolomé Baca after his death who claimed the land in question?

Answer. Manuela Baca, Maria Baca, Lugarda Baca, and the heirs of Rita Baca, and Juan Baca, who lived in California when Bartolomé Baca died.

127 Q. When and where did you hear all or any of the persons you say are the heirs of Bartolomé Baca claim to own the land in question? Do you undertake to say, of your own personal knowledge, that said persons in your presence and hearing claimed to own said land, or do you state this fact from the information of others?

A. They told me themselves, that is, at Punta de Agua, José Luna, husband of said Lugarda; at Torreon, Juan Chaves, husband of Maria Baca; at Tajique, Julian Sanchez, son of Rita Baca; and also Mauricio Sanchez, son of Rita Baca, so informed me, as well as others, probably, but I do not now remember. Julian and Mauricio Sanchez and Juan Chaves so informed me about the year 1855, and José Luna so informed me in the year 1866.

Q. Who was present besides yourself when you received the information from the persons you have named as claiming said property?

A. I can not remember now, though I do remember that when José Luna informed me there was present Guadalupe Jaramillo, who lives now at El Pino.

Q. State, if you can, who you ever heard say or admit, other than the heirs of Baca, that the property in question since the death of Bartolomé Baca belonged to the heirs of Bartolomé Baca, and when and where did this conversation take place.

A. Matias Sanchez, in the years 1839, 1840, and 1841, at Tajique; José Sanchez, at the same time and place; José Lorenzo Otero, at the same time and place, now deceased; Antonio Otero, now deceased, at the same time and place; Bernardino Chaves, now deceased, in the year 1837, at Manzano; and sundry and numerous others, too numerous to mention, who informed me the same thing.

Q. Did any of the persons you have named live on the grant in question at the times you say they stated the land belonged to Baca's heirs?

A. Yes, they all lived in the grant and those not deceased still live upon it.

Q. Do you mean to be understood that when you conversed with the persons you have named in reference to said grant they then lived on the grant in question; is it not true that many of them did not in fact live on the grant at the time you had your conversations?

(Objected to by claimants' attorneys on the ground that the question is a double one, embracing two questions in one, and is calculated to confuse the witness, and they insist that each of the questions be propounded to the witness and his answers taken separately.)

There being two questions embraced in the interrogatory, objection was made thereto and the objection was sustained, requiring the questions to be asked the witness separately. The witness in answer to the first question replied:

A. Those who were at Tajique lived upon the grant; Bernardino de Chaves lived at Manzano, and José Luna lived at Punta de Agua, and I understood Tajique to be within and Manzano and Punta de Agua to be without the grant.

In answer to the second question the witness replies:

A. I understand that some of them did and others did not live upon the grant at the time.

Q. How is it that you can recollect the times you had the conversations named? Did you make any memorandum at the times you had these conversations?

A. I took no memoranda, but I recollect the times from the fact that I lived at Tajique at the times mentioned, and was cultivating land at Manzano at the time referred to as to Bernardino Chaves, and am cultivating there now. The Bernardino Chaves mentioned had charge of Bartolomé Baca's stock raising and other business and interests at the hacienda there.

Q. Are you acquainted with the lines or boundaries of the grant in question? Did you ever trace them? If so, when?

A. Yes; I am acquainted with them. The boundaries I have never traced out on the ground, but I have often seen and traveled over and across them and know them well.

Q. Were you present at any sale, contract, or agreement between the heirs of Bartolomé Baca and Manuel A. Otero to the grant in question?

(Question and answer objected to by claimants' attorneys for the reason that it is irrelevant and impertinent, as it is new matter sought to be brought out on the reexamination, but has no reference whatever to any evidence brought out on the cross-examination. The surveyor-general has no authority to examine into or investigate any facts with reference to the purchase by Otero, even if they might be pertinent or applicable to this case.)

A. I was not.

CLEMENTE CHAVES.

Sworn to and subscribed before me this July 13, 1880.

HENRY M. ATKINSON,  
*Surveyor-General.*

129

[Exhibit for the United States.]

*Will of Bartolome Baca.*

[Good for seal third for the years 1833 and '34. Rubric.]

In the name of the Almighty God, amen:

I, citizen Bartolome Baca, a native of the jurisdiction of Belen, and residing at the place of San Fernando, jurisdiction of the Pure and Spotless Concepcion de Tome, a legitimate child of the lawful marriage of Don Domingo Baca and Dona Maria Antonio Montoya, deceased, who were also natives of Belen, being, by devine mercy, seriously ill, but with my full and complete natural faculties, memory, and understanding, believing and confessing, as I firmly believe and confess, the most high marvellous mystery of the most blessed Trinity, Father, Son, and Holy Ghost, these persons who, although really distinct, have the same attributes and are the one only true God and one essence and substance, and all the other mysteries and sacraments which our Mother, the Holy Roman Catholic Apostolic Church, holds, believes, and confesses, in which true faith and belief I have lived, do live, and declare I will live and die, as a faithful Christian Catholic, taking for my mediator and protector the always virgin and immaculate Queen of the Angels, most Holy Mary, mother of God and our Lord, my Holy Guardian Angel, those of my name and devotion



and others of the celestial court, to beseech our Lord and Redeemer, Jesus Christ, through the benevolence of His most precious life, passion, and death, to forgive all my faults and take my soul to enjoy His most blessed presence; fearful of death, which is natural and inevitable to every human creature and the hour of which is uncertain, in order to be prepared with testamentary instructions when it arrives; to determine with mature wisdom and reflection everything concerning the conciliation of my conscience; to avoid with clearness the doubts and contentions that may arise after my death in the absence thereof; and not having at this time any temporal care that prevents me from earnestly asking of God the forgiveness I hope for of

[Good for seal third for the years 1833 and '34. Rubric.]

130 my sins, I execute, make, and dictate my will in the following form :

First, I commend my soul to God, our Lord, who from nothing created it, and my body to the earth from which it was made, which, when a corpse, I direct be shrouded in the habit of our serafic father, San Francisco, and to be buried in the church of the Pure and Spotless Concepcion de Tome.

It is my will that my burial be humble and with mass with the body present. I also declare that I am lawfully married, in facie ecclesiae, to Dona Maria de la Luz Chaves, from which marriage we have had and have, as our legitimate children, Maria Rita, Manuela Antonia, Maria Manuela, Juan, Manuel, and Maria Lugarda. I also declare as my property the house where I live, containing seventeen serviceable and three unserviceable rooms, with a chapel where the holy sacrifice of private mass is celebrated, adorned with thirty-five images in sculpture and pictures, a pulpit, twenty-four mirrors, a censer with its boot of silver, five chasubles with their corresponding accessories, two capes, two albs, two sashes, six altar draperies, two missals, one chalice with its accessories, two cruets with their salvers, eight metal candlesticks, and its vestry with a chest in which the ornaments are kept. I also declare as my property the utensils of my house, consisting of eight mirrors, eleven silver plates, twelve spoons, and eight forks also of silver, three copper kettles, two large chests, four carts with trappings, five trunks, three hampers, one silver vase and a tankard of the same, one wardrobe, one carriage, four serviceable and three unserviceable wagons, one flask case with twelve flasks, eight hoes, three axes, two adzes, three bars of iron, two American saws, one thousand six hundred dollars in money, one copper boiler. I also declare as my property nine small houses in this place of San Fernando, four small houses at El Cerro,

the farming land I have at this place and at El Cerro, with the  
131 purchase I have in this said sitio, which is coterminous with the sitio of Valencia. I also declare as my property a house I have in the sitio of the Peraltas, a broken field, and an interest in the

[Good for seal third for the years 1833 and '34. Rubric.]

said sitio. I also declare as my property a house and lands in the sitio of the Aragon, an interest in said sitio which I bought of the late Jose Aragon.

I also declare as my property a ranch which I bought of Don Luciano Garcia on the other side, in front of Bernalillo, which consists of a house

and lands, the value of which is one thousand dollars, which I gave for it. I also declare as my property two ranches in the sitio of Tome, with its houses, which I purchased of Jose Manual Apodaca and Andres Mirabal, and two large fields purchased of Felipe Montoya. I also declare as my property two fields and an interest in the sitio of Las Enlames, which I purchased of the late Antonio Jose Baca. I also declare as my property that which I have in a room in my house set apart as a store, and in which there are forty-five pieces of calico, domestic and muslin. I also declare as my property two houses I have in La Joya de Sevilleta, together with their share of lands in the sitio. I also declare as my property a house I have in the village of El Paso del Rio del Norte, with its vineyard and corresponding land, as appears from the document executed for me and which is in my possession. I also declare as my property the land I have in the sitio of Sansal, which Juan Antonio Baca paid me and which was received by Tomas Sanchez. I also declare as my property the broken lands I have in the sitio of Mansano and my interest therein, together with the will under the management of Jose Antonio Torres. I also declare as my property a mill I have in this place of San Fernando. I also declare as my property four hundred and fifty head of cattle from the brand up, seven thousand head of small stock, eight hundred ewes  
 132 of mine which Don Francisco Ortiz has on shares, one thousand ewes which Gonzalez, who resides at Seboyeta, has on shares. I also declare as my property forty broken mules, a little more or less, twenty-four aparejos, with accessories, one hundred horses between unbroken and broken, twenty-four young mules one and two years old, two asses. I also declare th't Don Mateo Sandoval owes me

[Good for seal third for the years 1833 and '34. Rubric.]

four hundred and thirty dollars in money, which I order collected. I also declare that, according to the cash book in my use and the obligations that have been made to me, collections be made of all the individuals who owe me and are not credited on their accounts and obligations. I also declare that I owe the house of the late Francisco Chaves four thousand and odd dollars in money and five thousand ewes I had from said house on shares. I order that it be paid. I also declare that I owe as tithes at El Paso del Norte four thousand dollars. This is being paid, and what is found not to have been paid, I order that it be paid. I also declare that I owe to Don Santiago Arichavala four one thousand two hundred sheep. I order that they be paid for. I also declare that I owe Don Rafael Ortiz for six hundred sheep for the year eighteen hundred and thirty-four. I order that they be paid for. I also declare that I owe my stepson, Jose Luna, for five hundred sheep. I also declare that Don Ricardo Ester owes me four thousand five hundred dollars. I order that it be collected. I also declare that Don Ignacio de la Campa, who lives in Sonora, owes me one thousand five hundred and fifty-six dollars, two reals. I order that it be collected. I also declare that Don Alexandro Legren owes me four hundred dollars, two hundred of which appear in an obligation he executed for me, and for the other two hundred he made no obligation. I order  
 133 that it be collected. I also declare as my property a tract of land in the sitio of the Lunas, which Antonio Jose Padilla paid me. I also declare that Ruybali de Savinal owes me for three hundred



ewes. I order that it be collected. I also declare that Vicente Proven-  
cio, who resides at Oposura, in the State of Sonora, owes me five hundred  
dollars in money. I order that it be collected. I also declare that all the  
servants of my house, according to their accounts, are obligated to earn  
them in the house, even to the last real, and he who does not wish to serve  
shall pay in full. I also declare as my property forty she goats, which are  
in the possession of Gertrudis Montoya, who resides in Belen. I also  
declare as my property one iron cot and two bells.

[Good for seal third for the years 1833 and '34. Rubric.]

I also declare as my property a cross with its iron weather vane, which  
is used on the belfry. I also declare that I leave to my wife, Dona Maria  
de la Luz Chaves, my dwelling and all the household furniture within the  
doors thereof, it being observed that I have given hous's to all my chil-  
dren; to Manuelita the house I have in Santa Fe, with its corresponding  
land, and to all the others I have also given houses in this place of San  
Fernando, with their respective lands. I also declare that I leave to my  
wife, Maria de la Luz Chaves, the land enclosed by a wall I have in this  
place and the orchard.

In order to carry out all the wishes this will contains and which the  
codicil will contain, in case I leave one, I appoint as my executor, in the  
first place, my wife, Maria de la Luz Chaves; in the second, Don Jacinto  
Sanchez, and in the third, Don Enrique Luna, and each one in solidum,  
and I give them ample power to take possession of my property as soon  
as I die, and to pay all I owe, and that their collection be lawful and real,  
and that they make it with the legality their good conscience may indicate  
to them, which charge shall continue for the legal year and as much  
more time as they may need, since I extend it. And after it is

134 completed and everything paid, in the sale of my property, furni-  
ture, real property, rights and shares, present and future, I consti-  
tute as my sole and universal heirs my wife, Dona Maria de la Luz  
Chaves, and my said children, Maria Rita, Manuela Antonia, Maria  
Manuela, Juan Clemente, Manuel, and Maria Lugarda, who, after paying  
all I owe (except what I have given them), shall make a lump of what is  
left, the half for my said wife and the other half to be shared in equal  
parts by my children that they may enjoy it with the blessing of God and  
my own. And by these presents I revoke and cancel the wills and other  
testamentary provisions I may have made heretofore

[Good for seal this for the years 1833 and '34. Rubric.]

in writing, verbally, or in any other manner, so that none of them has any  
value or judicial or extrajudicial effect, except this will and said codicil,  
which I desire and direct be considered and held as such and as my last  
deliberate wish, in the manner and form most in accord with the law.

Thus I execute and sign it before the acting alcalde, Don Juan Jose  
Sanchez, in the absence of the proprietary alcalde and his attending wit-  
nesses, in this place of San Fernando, jurisdiction of Tome, on the second  
day of the month of March, eighteen hundred and thirty-three, and for  
the greater force and validity of this will and of my last wishes I request  
said alcalde to authenticate it, and I, the said alcalde, stated that I authen-

ticated it, as I formally authenticated it and in accordance with the powers vested in me, signing it with the patient and my attending witnesses, and on this common paper, as there is none of the corresponding seal in this jurisdiction, the parties in interest being obligated to aggregate the canceled paper, to all of which I certify.

JUAN JOSE SANCHES.  
BARTOLOME BACA.

I was a witness.

MIGUEL ARAGON.

135

I was a witness.

JOAQUIN ALARID.

This is a true and lawful testimony taken from its original, to which I refer, which ought to remain in the archives of this jurisdiction, and the first and second executors saw it copied, corrected, and amended, and they signed with me and those in my attendance, with whom I act and to which I certify, in this jurisdiction of Tome, to-day, the 23rd of May, 1834.

Between lines out valid.

JOSE SALAZAR. [RUBRIC.]

Witness:

JOSE MARIA BACA. [RUBRIC.]

MIGUEL ARAGON. [RUBRIC.]

JACINTO SANCHES. [RUBRIC.]

Witness:

F. DE MADARIAGA. [RUBRIC.]

Fees, \$8, without the paper.

[RUBRIC.]

Translated by Henry O. Flipper, spec. agt., etc.

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*Defendant's Exhibit—Nerio Antonio Montoya grant.*

*To the Honorable the Corporation of Tome:*

I, citizen Nerio Antonio Montoya, resident of the town of Valencia, appear with the greatest respect before your honorable body and state, that finding myself at the said place, Valencia, with only the family relations of my wife, and not knowing what may fall to her share, the said tract of land being owned among them, and having no confidence that, even should the same be divided out, any considerable portion would come to me on which to depend for the support of the large family by which I am surrounded, the land being small in quantity and the holders being numerous, under this apprehension I find myself under the imperious necessity of applying to your honorable body, that you be pleased to take this my situation in consideration, and that actuated by your well-known generosity you may further manifest the same by appending hereto your report to the most excellent deputation, so that that body in view thereof, and of what I myself represent, may, should it deem proper to do so, direct that I be placed in possession from the Central Spring to the rancheria, about half a league in area along the cañon, and distant about one league from the Manzano grant, which tract is uncultivated, and in my opinion the grant would not be injurious to the inhabitants within this jurisdiction in

regard to pasturing and water for their live stock, owing to the barrenness of the cañon in which the said tract lies and the quantity of water it contains, and it is valuable only for cultivation on a small scale, for which purpose only I desire it, I having planted there last year, and the crop, though I could not tend it well, owing to the great distance, did not fail to relieve me with its limited production. For all which reasons I humbly and submissively ask and pray your honorable body to be pleased to do for me as I request, for I shall thereby receive favor and justice. I declare not to act in dissimulation, and whatever is necessary, &c.

137 This is written on this common paper, there being no paper of the proper stamp in this jurisdiction; the obligation to attach it remaining upon me.

Valencia, February 28, 1831.

NERIO ANTONIO MONTOLLA.

#### REPORT OF THE CORPORATION COUNCIL.

TOME, *March 19, 1831.*

This honorable council being convinced by the strong reasons set forth by the petitioner, and no injury resulting, but rather considerable advantage to the interests and encouragement of agriculture, his petition will go before the most excellent territorial deputation, which, as the authority competent, may accede to the donation of the land prayed for by the said petitioner without injuring the pastures and watering places for the passers by.

JUAN BACA.

MIGUEL DE OLOXA,

*Member and Secretary.*

#### DECREE OF THE MOST EXCELLENT DEPUTATION, BOOK I, FOLIO 2.

SANTA FE, *November 12, 1831.*

The honorable the deputation of this Territory having received the report of the constitutional council of Tome appended to this petition, has resolved in this day's session to grant the land prayed for by the petitioner, charging the alcalde of said jurisdiction to execute the document that will secure the grantee in the grant hereby made to him.

ABREAU, *Secretary.*

#### ALCALDE'S DOCUMENT.

The citizen Miguel de Oloxa, second alderman of this honorable council of Tome, and present alcalde of the same jurisdiction, &c.

In obedience to the decree of the most excellent deputation of this  
 138 Territory, made under date of November 12th of the current year, on the margin of the petition which, under date of February 28, the citizen Nerio Antonio Montoya, resident of this said jurisdiction, presented to this honorable council, and on which petition is recorded the report made by this council, in accordance with which report its excellency has deemed it proper to accede to the petition of Montoya, granting him full and formal possession of the tract he prayed for on the opposite side of the mountain at the Central Spring, and from the latter to the rancheria,

which is according to the petition of the grantee; and in order to execute title to and secure to him as his own property the said land, I, the said alcalde, in pursuance of the order of its excellency, and by virtue of the power conferred on me by law, do execute to him this document, acting with attending witnesses for want of a notary, there being none such as the law requires, and on this common paper on account of the well-known lack of stamped paper, the grantee standing obligated to attach the proper revenue stamp, Montoya's original petition remaining in the meantime among the archives of this office; and the said Montoya, whenever he may choose or think best to do may notify me to proceed with him to the locality to place him in possession of the property granted him, with all the customary formality, to the end that with full control he may enjoy for himself, his children, and successors, the land which in the name of the nation is granted to him.

And for full security I signed and executed this on the seventh day of the month of December, one thousand eight hundred and thirty-one, with my attending witnesses as aforesaid; to all of which I certify.

MIGUEL DE OLONA.

Attending: ISIDRO SAMORA.

Attending: ANTONIO BARELA.

#### POSSESSION.

On the twelfth day of the month of December, one thousand  
 139 eight hundred and thirty-one, I, second alderman of this honorable council and present alcalde of this jurisdiction of Tome, in compliance with the provision made by this most excellent deputation of this Territory, and the notification given me by the citizen Nerio Antonio Montoya, proceeded with him to the tract of land granted to him, and standing thereupon, and no injury whatever resulting, I designated to the said Montoya the following boundaries: On the east, the so called Apache Rancheria; on the west, the Central Spring; on the north, the highest part of the Cañon Mountain ridge, the same at which the spring is situated; and on the south, the commencement of the little valley of the Cuerdo up to a spring situated therein, commonly called the Cubero Spring; and I notified him of the conditions expressed in the report relative to pastures and watering places for the use of passers-by, directing him at the same time to establish firm and permanent landmarks; and in confirmation of the whole I took him by the hand and led him over said land, and he plucked up grass, cast stones toward the four cardinal points, shouting aloud "Blessed be the nation" once and thrice in sign of true, peaceable, and unopposed possession.

And that it may so appear, I, said alderman and present alcalde, signed this document, with my attending witnesses, as aforesaid, to which I certify:

MIGUEL DE OLONA.

Attending: JUAN JOSIE DE MADARIAGA.

Attending: ANTONIO BARELA.

At Corrales, county of Bernalillo, on the 2nd day of the month of October, 1848, before me, Fernando Aragon, alcalde of the said county,

appeared Nerio Montoya, resident of the county of Valencia, and Juan Perea, resident of Bernalillo, and both being present, the former declared that he conveys all his right in and control over this document to the said Perea and his sister, Dolores Perea, to the end that henceforth they may be the proprietors thereof, making legal use of this title as their own property, which it is, together with a lot of land (huerta) containing four hundred and seventy-four grape vines, three rooms, built of wood, for dwellings, eighty-six peach and apple fruit trees, and the wall surrounding the grape patch, with the privilege that should it fall down they may rebuild it from the adjoining ground; also the document and right to the acequia irrigating said patch, nineteen jars (frascos) of brandy, a land claim (aucion) the vendor has purchased from Manuel Sedio at the place Las Peraltas, and the three rooms aforesaid he conveys, together with the lot and the eaves-drippings (chorreras) belonging thereto, and the vendor declares that all that is mentioned in this instrument he conveys (escede) to the said vendees for four thousand five hundred and eighty-one head of sheep and goats (ganado menor), for which, as well also as for some merchandise, he was in debt to them, for which property (cantidad), the said vendees acknowledge themselves paid and satisfied the said indebtedness.

Thus have the parties contracted before (me), and I certify thereto, with attending witnesses, to all of which I certify.

FERNANDO ARAGON, *Alcalde*.  
NERIO ANTONIO MONTOYA.

Attending: MARCOS S. VERGARA.  
Attending: JUAN BEJIL.

#### OFFICE OF THE POLITICAL CHIEF OF NEW MEXICO.

By your official communication of the 20th instant I am advised of your having executed the decree of the most excellent deputation, granted to the citizen Nerio Antonio Montoya a tract of land.

But in regard to the inquiry you make of me as to how much your fee should be, I inform you that I am ignorant in the premises, and that you may, if you choose to do so, put the question to the assessor (asesor), who is the officer to whom it belongs to advise the justices of first instance in such cases.

God and liberty.

Santa Fe, December 22nd, 1831.

JOSE ANTONIO CHAVEZ.

To Alderman MIGUEL OLONA.

142 *Defendant's Exhibit.—Antonio Sandoval or Estancia grant.*

[Translation of title papers.]

A, No. 1.

[Third seal (seal), one dollar.]

Years one thousand eight hundred and forty-four and one thousand eight hundred and forty-five.

MOST EXCELLENT GOVERNOR: I, citizen Antonio Sandoval, resident of the town of of Albuquerque, before the upright justice of your excel-

lency, in due form appear and state, sir, that, considering that it is now the number of thirty years and more that I am rendering service to the country, as well with my person as with my property, as up to this time is clear and evident, without having in any way interposed the least objection thereto, and without having on that account been paid any compensation for my services; wherefore, in view of what is set forth, I proceed, if I am justified in doing so, to pray that your excellency in your benevolence be pleased, in the name of the supreme authority of the Mexican nation, to do me the favor and grace to grant me in possession integram the salt lakes tract, assigning as boundaries toward the north one league from the Berrendo Spring, the said Berrendo Spring being within the possession, and toward the south from the salt lakes another league, on the east the little hills of the Pedernal, and on the west the water of the Mestenas. It is understood that I make this petition because the land is vacant and in a condition of mortmain, as to do so is without prejudice to any third party, and because I have not where to pasture my live stock, which is considerable. For this reason it is imperative for me to do so, and if I deserve the favor let it be done in compensation for the services I have referred to, and for the same reason I ask your excellency that if this grant be made to me it be free and exempt from tax. In conclusion of all which I humbly ask and pray your excellency for the sake of *of* justice to accede to this my prayer, whereby I will receive the favor I seek. I declare that I act not in dissimulation in the premises, covenant good faith to pay costs, and do whatever be necessary, &c.

Albuquerque, December 5, 1845.

ANTONIO SANDOVAL.

SANTA FE, *December 7, 1845.*

This Government being convinced of the valuable services Don Antonio Sandoval has rendered and is now rendering the country, as well during the time to which he refers as also during the six years he served administering the prefecture of the second district with the salary of \$1,500, of which not even a half real has been paid to him, the sum due him amounting to \$9,000, and the statements in this petition being true, I do, in exercise of the power in me vested by the laws, and also in consideration of all the premises, and as a just title acquired, make to him the grant for the land he solicits, with all the dimensions and pasture lands he asks, that he may enjoy the same in the name of the supreme government of the Mexican nation, and under my concession free and exempt from all tax or tribute.

MANUEL ARMILLO.

B.

[Seal fourth (seal), one-fourth real.]

For the years one thousand eight hundred and forty and one thousand eight hundred and forty-one.

Qualified for the years 1844 and 1845. [Rubric.]

I, Jose Serafin Ramirez y Casanobe, comptroller of the departmental treasury of New Mexico and acting treasurer of the same, do hereby certify, at the request of Antonio Sandoval, that during the period of forty years, as appears from the records of the books of the treasury, Don

Antonio has been serving the nation as a military and civil officer. It also appears that he has loaned numerous sums of money to the treasury of the nation without receiving one half real interest, and that there are now large sums due him, as appears from the entries in this office and the evidences in possession of the party interested, on account of salaries and loans.

And in testimony thereof I issue this certificate at Santa Fe this 6th day of December, 1845.

JOSE SERAFIN RAMIREZ.

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C, No. 2.

At this place, La Estancia, on the fifteenth day of the month of December, in the present year one thousand eight hundred and forty-five, I, Jose Baca y Ortiz, justice of the peace of Real del Oro, in obedience to the decree of the most excellent governor, concerning the grant of land he makes exempt and free from all tribute, proceeded to the afo mentioned land, in company with my two attending witnesses, to mark the limits and boundaries which were granted to the petitioner, and having caused the citizen Juan Antonio Aragon, representing the person of Antonio Sandoval to be present, I exhibited to him the petition the latter had made, and stated that, for the greater security of his interests, he should maintain a force of men with good arms, to be ready for an emergency; and he being fully informed of the above, I took him by the hand and declared in plain and intelligible words that, in the name of the sovereign Congress of the Union, the aforesaid land was given to him in possession, which he received quietly and peaceably without any objection, and he cast stones, plucked up grass, and shouted with joy, "Long live the sovereign Congress of the Mexican nation;" whereupon he was shown the boundaries, which are: On the north, one league from the Bernendo Spring, the said spring being included in the possession; on the south, one league from the salt lakes, the said lakes also being within; on the east, the little hills of the Pederna, with its range; and on the west, the water of the Mestenas; wherefore, the party interested being satisfied and content with the favor and concession which has been made to him, I did, in testimony thereof in all time to come, execute to him the present document of possession, that it may serve him as formal title, and for its greater validity I interpose the authority conferred upon me by law, signing the same on said day, month, and year, with my attending witnesses, for lack of a notary public, there being none, and on this common paper, for want of that having the proper seal; the party, however, binding himself to attach it at his expense. To all of which I certify.

JOSE BACA.

Attending: JOAQU. TOMOHANO.

Attending: PABLO DELGADO.

Recorded in book, letter B, pages 166 and 167, to which I certify that it may so appear.

DONACIANO VIGIL,  
Recorder.



*Defendant's Exhibit—Manzano Grant.*

[Grant translation.]

*To the Illustrious Corporation of Tome :*

Citizen Jose Manuel Trujillo, for himself and in the name of the settlers of Manzano whose names appear on the margin, with due respect represent to your excellencies : That not having the deed of possession to the said town in which they have settled, and the site of said town not being known to be owned by no one, we request your excellency to be pleased to grant us the possession thereof, giving us the land which we are now occupying ; giving us as boundaries from north to south, from Torreon to the old mission of Abo, and from east to west, from the table-lands called Jamanes to the mountain ; all of which is to be for pasture grounds and other common purposes, cross-roads and other uses necessary for every town established upon all the solid bases of common and private property, and inhabited by the same ; requesting further, as a condition for any of the above-mentioned individuals, or any others to be admitted in future without injury to the former, to the new town of Manzano, to acquire legal property therein ; that he shall construct a regular terrace house of adobe in the square where the chapel is to be constructed (for which permission has been granted us), and he shall bring with him his property of every description, contribute to all community labor, procure the increase and prosperity of the town, defending with arms the firesides of his town to the fullest extent against any domestic or foreign enemy, and finally that the person who will not reside in said town with the family belonging to him, and who shall remove to another settlement, shall lose all right he may have acquired to his property.

In view of what has been above stated we all, and each of us, request that your excellencies will be pleased, through a committee of your body, to establish the boundaries of the town at the points above set forth, which being done, that we be compelled to establish the proper monuments for the information of the settlers and the public within the entire territory, granting us the said land in the name of the Supreme Government of the Mexican Nation, to which Government we belong, referring thereupon this our petition to the most excellent deputation, in order that the proper approval may issue therefrom.

Tome, September 22, 1829.

JOSE MANUEL TRUJILLO.

The corporation of the jurisdiction of Tome, in view of the foregoing petition, in session of to-day, has resolved to refer said petition to the most excellent territorial deputation, with the remark that this corporation knows of no obstacle against granting to the petitioners the land they solicit, the only objection found being in regard to the arable land therein situated belonging to retired Lieutenant-Colonel Bartolome Baca, who will be satisfied with the land which, as a new settler, he may acquire, together with that which he has purchased from other settlers, promising that although he will not establish his residence there, he will cultivate and improve the lands which may be recognized as his.

Tome, September 25, 1829.

JACINTO SANCHEZ.

JUAN BACA,

*Acting Secretary.*



Office of the secretary of the most excellent territorial deputation of New Mexico.

In session of the 28th of November last past, this deputation  
146 resolved that the following decree be added to the foregoing proceedings:

"By virtue of the foregoing report of the corporation of Tome, the justice of that jurisdiction will place the petitioners in possession of the land they ask for, giving to each one the tillable land he may be able to cultivate, leaving the remainder for such other individuals who in the future may establish themselves therein, limiting the boundaries to one league in each direction."

JOSE ANTONIO CHAVEZ, *President*,  
RAMON ABREU, *Secretary*.

MANZANO, December 24, 1829.

In compliance with the directions of the most excellent territorial deputation, as hereinbefore expressed, I proceeded to this settlement of Manzano on the day of the date, and all the inhabitants thereof being assembled, the decree was read to them for their information, and thereupon I proceeded to give them possession of the aforesaid site in the name of the nation, establishing as the center of said land the "Alto del pino de la Virgen" (height of the pine of the Virgin), which is situated in the middle of the fields, the settlers having asked for that point, and having measured their league in the direction of the four cardinal points of the compass, as directed by the most excellent deputation in their foregoing decree, their boundaries were given to them as follows: On the north two solitary cedar trees in the canon del alto, called the canon of the deceased Ulas; on the west the summit of the hill, which is on the western side of the upper (torn); on the south the rise which is on the opposite side of the

Gulf of Cienega; on the east the mesa Colorado, called the rancho  
147 of Don Pedro de la Torre, and having placed them in possession

I proceeded to the head of the tillable land, and having intimated to them that I was going to divide out their lands by lot in accordance with the foregoing decree, they unanimously answered requesting me to do them the honor to let them retain the land they had already improved, which request I deemed proper to comply with in order that no one should be dissatisfied.

In testimony whereof I signed with my attending witnesses, to which I certify.

JACINTO SANCHEZ.

Attending: JUAN JOSE SANCHEZ.

Attending: NERIO ANTONIO MONTOYA.

Settlers of Manzano:

Jose Manuel Trujillo.

Bernardino Chavez.

Joaquin Sanchez.

Antonio Torres.

Diego Gonzalez.

Jose Antonio Torrez.

Juan Archuleta.

Jose Leon Perea.

Juan de Herrera.

Jose Manuel Garcia.

Francisco Garcia.

Francisco Herrera.

Jose Maria Marques.  
 Juan Marquez.  
 Mariano Torrez.  
 Gertrudis Benavideo.  
 Santos Marquez.  
 Tomas Sanchez.  
 Jose Cisneros.  
 Ramon Cisneros.  
 Estanislao Otero.  
 Jose Maria Perea.  
 Juan Perea.  
 Jose de Jesus Baldonado.  
 Antonio Mirabal.  
 Anastacio Mirabal.  
 Juan Chavez.  
 Juan Gonzales, jr.  
 Juan Estaban Chavez.  
 Faustin Sanchez.  
 Francisco Velasquez.  
 Juan Velasquez.  
 Antonio Candelaria.  
 Manuela Sena.  
 Antonio Jose Garcia.  
 Matias Montoya.  
 Antonio Torres.  
 Reijes Torres.

Amounting to 61.

Further :

Jose Sanchez.  
 Pedro Chaves.  
 Rafael Montoya.  
 Eugenio Cordova.

New settlers :

Pablo Gallegos.  
 Alfonso Jaramillo.  
 Jose de Jesus Maldonado.  
 Nepomuceno Luero.  
 Jose Rafael Chaves.  
 Juan Lucra.  
 Luis Romero.  
 Manuel Sallas.  
 Francisco Sena.  
 Marcos Sedillo.  
 Juan Perea.  
 Manuel Trajillo.  
 Ygnacio Sedillo.  
 Pedro Sena.  
 Jesus Sena.  
 Trinidad Salas.

Nicolas Salasar.  
 Rafael Montoya.  
 Matilde Montoya.  
 Jesus Saavedra.  
 Ana Maria Barela.  
 Francisco Sedillo.  
 Juan Sedillo.  
 Jose Sedillo.  
 Rafael Sedillo.  
 Alfonso Sedillo.  
 Juana Montano.  
 Diego Sanchez.  
 Jose Mirabal.  
 Juan Castillo.  
 Jose Dolores Jaramillo.  
 Miguel Chavez.  
 Eulogia Saez.  
 Nerio Montoya.  
 Miguel Lucero.  
 Domingo Lucero.  
 Jose Maria Gonzales.  
 Jose Antonio Montoya.  
 Francisco Torres.  
 Guadalupe Perea.  
 Juana Peralta.

Julian Sanchez.  
 Miguel Archuleta.  
 Domingo Sanchez.  
 Francisco Padilla.

Juan de Jesus Zamora.  
 Jose Torres.  
 Antonio Jose Otero.  
 Manuel Chaves.  
 Jose Sanchez y Cueva.  
 Martin Gurule.  
 Tiburcio Sanchez.  
 Juan de Jesus Maldonado.  
 Pablo Padillo.  
 Cepriano Torres.  
 Nicolas Torres.  
 Bñan Torres.  
 Jose Sanchez y Torres.  
 Lorenzo Torres.  
 Cruz Flores.  
 Manuel Sanchez y Chaves.

*Defendant's exhibit—Torreon grant.*

[Seal third (seal), two reals.]

For the years one thousand eight hundred and forty and one thousand eight hundred and forty-one.

In this jurisdiction of Valencia on the fifteenth day of February, in the year one thousand eight hundred and forty-one, before me, citizen Vicente Otero, substitute justice of the peace of said jurisdiction, and my attending witnesses, appeared twenty-seven individuals of this same jurisdiction, who stated that having no land to cultivate to procure the means of supporting their families they have determined to ask for the site called Torreon, and for that purpose they hereby confer ample authority upon Don Nerio Antonio Montoya, in their name and representing their persons, rights, and interests, to solicit a grant to the aforementioned site of Torreon from the proper authority, and for the benefit of whom it may concern I have executed this power of attorney, signing the same with my attending witnesses, to which I certify.

(Signed)

VICENTE OTERO.

Attending :

(Signed) JUAN SANCHEZ.

Attending :

(Signed) JOAQUIN ALARID.

I accept the foregoing trust.

(Signed)

NERIO ANTONIO MONTOYA.

[Seal third (seal), two reals.]

For the years one thousand eight hundred and forty and one thousand eight hundred and forty-one.

To the Honorable Prefect Don ANTONIO SANDOVAL :

Citizen Nerio Antonio Montoya, a resident of Valencia, for himself and in the name of the individuals contained in the accompanying power of attorney, appear before your honor with all due respect and state that myself, as well as my clients, being short of tillable land for the support of our families, and the Torreon Spring being unoccupied, and the fertility of the soil it waters being such that it promises to yield a bountiful crop and be a benefit of agriculture, a purpose so much recommended by our wise laws; for these reason I humbly pray your honor to grant us, without injury to third parties, the above-mentioned lands in the name of the nation, with the following boundaries : From these spring above mentioned towards the north with the lands of Tajique, a distance of about 800 varas, to the south one league; on the east as far as the water reaches, and on the west to the farm belonging to me, being a distance of about 500 varas.

In view of all which I pray and request your honor to grant our petition in order that the customary title may be executed without injury to judicial rights, by which we will receive grace.

Albuquerque, February 16, 1841.

(Signed)

NERIO ANTONIO MONTOYA.

BARELAS, *February 23, 1841.*

This petition is referred to the justice of the peace of Tome to report fully if the petitioners have any lands from which to obtain their subsistence, and also if the land they ask for is vacant and belongs to no one, and what is the nature of the land.

(Signed)

SANDOVAL.

(Signed)

FRANCISCO SARRACINO, *Secretary.*

In compliance with the decree of the prefect, Don Antonio Sandoval, dated on the 23rd of February last past, I have to report that I have ascertained that the persons contained in the accompanying lists have not lands sufficient to subsist upon, and that the lands solicited offers all the advantages the petitioner claims for it ; it will not injure any third party, and is unoccupied. (What has been erased is void.)

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Tome, March 1st, 1841.

(Signed)

JUAN DE JESUS CHAVEZ.

BARELAS, *March 3rd, 1841.*

From the foregoing report it appears that there is no obstacle in granting the request of the petitioners, therefore these proceedings are referred to Don Juan Chavez, justice of the peace of Tome, in order that he may proceed to give them national and personal possession of the land granted by this prefecture, which possession will be formerly made in the name of the Mexican nation (which may God preserve) with all the customary solemnity, and without injury to third parties, leaving pastures, wood, timber, and customary roads free, excepting lands for cultivation, town site, enclosures, and for other necessary and common uses, giving a sufficient amount of land to each one under a penalty of forfeiture if they committe any crime, or if they fail to cultivate the land within the time prescribed by law, for which purpose the aforesaid justice will take such steps as may be necessary, reporting the same to this prefecture in order that it may be filed in its archives.

(Signed)

ANTONIO SANDOVAL.

(Signed)

FRANCISCO SARRACINO, *Secretary.*

In this jurisdiction of Tome, on the 10th day of March, one thousand eight hundred and forty-one, I, citizen Juan de Jesus Chavez, justice of the peace of said jurisdiction, by virtue of the commission entrusted to me by Don Antonio Sandoval, prefect of the second district in the foregoing decree of the third instant, and in compliance with said decree, I proceeded to the site of El Torreon, and being there, then having summoned Don Nerio Antonio and the other settlers whose names appear on the accompanying lists, to whom I made known the foregoing grant, and no question having arisen, I proceeded with two attending witnesses, who I appointed for the purpose, to examine the land, and measuring the same from north to south one league, and from east to west one and one-half leagues, I gave them from north to south, as their northern boundary, the boundary of Tejique ; on the south, the Cuerdo Mountain ; east, the junction of the Torreon Canon with that of the Cuerdo ; west, the boundary of the farm of Don Nerio Montoya. Within these boundaries I gave to each settler one hundred varas of land for cultivation, measured from east

to west. In addition to the one hundred varas I assigned to them for building the town, enclosures and other common purposes, I gave to each settler a piece of land immediately adjoining the town for gardens, considering the same to be just, and having been requested to do so by the settlers, which request I complied with as aforesaid. In addition to the hundred varas above mentioned, I gave to Don Nerio Montoya the valley which is north of the Torreon Mountain. I gave to Mauricio Sanchez for his share the little valley of the farm of the late Bartolome Baca, to the common road of the Canon de los Cumanches, toward the south; on the east, to the Tajique road; on the north, the river; and on the west, to the source of the spring; which I gave them to hold for themselves, their children, heirs, and successors; said land to be cultivated within the period prescribed by law. All of which was granted nationally and personally, in the name of the Mexican nation (which may God preserve), to which they belong. The settler being notified of the aforementioned petition of the honorable prefect, I took them by the hand, walked with them over the land, they threw stones, pulled up grass, and all at one time cried: "Long life, long life to the supreme government of the Mexican nation" (which may God preserve), and in testimony of legal possession, which I gave them, and they received quietly and peaceably without opposition, and in order that it may so appear I placed it in record, signing the same with my attending witnesses, with whom I act in the absence of notaries, there being none in this territory on said day, month, and year, to which I certify as above stated. Citizen Juan de Jesus Chaves interlined is valid.

(Signed)

JUAN DE JESUS CHAVES.

Attending:

(Signed) JUAN LUERA.

(Signed) ANTONIO BARELA.

Addenda: Not having mentioned the boundaries of the tillable lands I measured out for them, I state them in this decree, and they are from north to south from the little table-lands on the opposite side of the river, south the main ditch (acequia madre), where twelve varas are left free for a road, and to allow the said settlers to transport their crops.

152 I certify.

Date ut supra.

(Signed)

JUAN DE JESUS CHAVES.

Attending:

(Signed) JUAN LUEVA.

(Signed) ANTONIO BARELA.

153

*Defendant's Exhibit.—Tajique grant.*

[Copy.]

MOST EXCELLENT SIR: Manuel Sanchez for himself and in the name of nineteen individuals, all residents of Valencia, represent to your excellency that having discovered a tract of land suitable for cultivation at the point of Tajique which is vacant and consequently will not be to the injury of any third party—on the contrary, the condition of the petitioners will be bettered on account of the limited amount of land which they can now cultivate—and that your excellency in compliance with the law which recom-

mends the encouragement of agriculture be pleased to direct that the above-mentioned land, containing one-half league in circumference, be donated to them, protesting to pay all costs in good faith, &c.

Valencia, March 9th, 1834.

(Signed)

MANUEL SANCHEZ.

SANTA FE, *March 17th, 1834.*

The constitutional justice of Valencia, to which jurisdiction Tajique belongs, as I am informed, will make the division asked for within the boundaries they set forth, provided no injury will result to any third party, the grant temporarily made by this government to avoid delay in planting their crops being subject to the confirmation of the most excellent deputation when it shall meet.

(Signed)

SARRACINO.

At this point of Rajique, on the ninth day of April, one thousand eight hundred and thirty-four, in compliance with the provisional order of the political chief to place the parties in possession in order that the individuals who asked for a grant to said land containing one-half league in circumference should not lose their crops, I, Citizen Vicente Otero, constitutional justice of the township of Valencia, proceeded to the place for that purpose, with two attending witnesses which said office is entitled to, commencing by measuring the one-half league in circumference, having in the first place set aside one hundred and seventy-two varas in the most convenient place for a town site, and from the center thereof the one-half league in the direction of the four cardinal points of the compass was measured in the following manner: The first, towards the south, which reached to a thick cedar a little above the cañon called the "De Los Pinos;" the second, toward the north, to the cañon De las Urigas, where a pine tree was marked with a cross; the third, towards the west, to the little table-lands of the Cueva, where another pine tree was marked with a cross; the fourth, towards the east, to the lone pine. Said measur'ments having been made in the presence of twelve of the grantess, the subdivision of the arable land to which each one was entitled to was omitted on account of the absence of seven of those contained in the granting act, the persons present to commence planting their crops with the understanding that when the proper time arrived I would return to subdivide the land, informing them that no one acquired any right to the land he cultivated, excepting those to whom it should fall by lot, with the condition that whosoever received the land which was broken up should break up a like quantity for the first occupant; and for the purpose of placing this on record, & other proper objects, I, the aforesaid justice, signed this document, with my attending witnesses, to which I certify.

(Signed)

VICENTO OTERO.

Attending:

(Signed) JACINTO SANCHEZ.

Attending:

(Signed) JOSE MANUEL MALDONADO.

At this place of Tajique, on the twenty-fourth day of December, one thousand eight hundred and thirty-four, I, Citizen Vicente Otero, constitutional justice of the jurisdiction of Valencia, in fulfillment of the fore-

going document, and in the presence of my attending witnesses, I caused to appear before me the persons to whom this place was granted, who being present, I informed them of the operation to be performed, as set forth in the foregoing document, and they willingly consented to receive whatever tillable land each one was justly entitled to; whereupon, the calculation being made, I commenced measuring from west to east one hundred and twelve varas to each one, having to leaving out in the first place twelve varas as outlets to the town, having placed them in possession in the following order: 1st, measured to Maria Gertrudis Chaves, who is bounded by the

lands of Antonio Otero; 2d, Antonio Otero, who is bounded by the  
154 lands of Maria Gertrudis Chaves and those of Manuel Garcia; 3d,

Manuel Garcia, who is bounded by Antonio Otero and Jose Lorenzo Otero; 4th, Jose Lorenzo Otero, bounded by Manuel Garcia and Matias Sanchez; 5th, Matias Sanchez, bounded by Jose Lorenzo Otero and Jose Antonio Zamora; 6th, Jose Antonio Zamora bounded by Matias Sanchez and Rafael Sanchez; 7th, Rafael Sanchez, bounded by Jose Antonio Zamora and Francisco Moya; 8th, Francisco Moya, bounded by Rafael Sanchez and Jose Maria Maldonado; 9th, Jose Maria Maldonado, bounded by Francisco Moya and Cristobal Zamora; 10th, Cristobal Zamora, bounded by Jose Maria Maldonado and Lazaro Ramirez; 11th, Lazaro Ramirez, bounded by Cristobal Zamora and Mateo Anaya; 12th, Mateo Anaya, bounded by Lazaro Ramirez and Ignacio Cedillo; 13th, Ignacio Cedillo, bounded by Mateo Anaya and Roman Zamora; 14th, Roman Zamora, bounded by Ignacio Cedillo and Domingo Zamora; 15th, Domingo Zamora, bounded by Roman Zamora and Jose Chaves; 16th, Jose Chaves, bounded by Domingo Zamora and Antonio Sanchez; 17th, Antonio Sanchez, bounded by Jose Chaves; Jose Sanchez to the west of the temple; Divinisio Vigil to the west of the temple; giving to all the privilege of breaking up such land as they may want, on a line of their own, without going beyond the half league granted to them, it being understood that those having received land which has been broken up by others within their lot shall break up an equal quantity for the person entitled to it, on unbroken land, by the month of April, 1835; and if said condition is not complied with, they will continue using the land they have broken up originally until other land is broken for them. All having expressed their satisfaction at this and all other matters connected with the division of the land, and in order that they, their heirs, and successors may enjoy the same peaceably and quietly, and in order that they may barter their land or dispose of it to whomsoever they may see proper at the expiration of the period prescribed by law for such grants, I, the aforesaid justice, said that I would authorize this document, as I did authorize it, in due form of law, and by virtue of the powers in me vested, signed with those in my attendance, to which I certify.

Attending:

(Signed) VICENTE OTERO.

Attending:

(Signed) JOSE ANTONIO MALDONADO.

The above is a true and faithful copy of the original, to which reference is made, asked for by the parties interested.

Tajique, December 25th, 1834.

(Signed)

VICENTE OTERO.



*Defendant's Exhibit.—Chilili grant.*

[Grant translation.]

ALAMEDA, March 8, 1841.

Citizens Santiago Padilla, Juan Manuel Padilla, Julian Padilla, Francisco Pacheco, Agustin Padilla, Rafael Gallegos, and Luis Salasar, for themselves and in the name of twenty individuals, residents of the third judicial district of this department, all of whom are heads of families, appear before your excellency in the manner best provided in law and convenient to us, and state that finding ourselves in the most abject necessity for the want of lands to cultivate in order to obtain our necessary subsistence, and that our sons may have some occupation, and having registered a vacant and unoccupied tract of land at the town of Chilili, abandoned and without any owner, we therefore pray and request your excellency to be pleased to direct, in the name of the supreme government of the Mexican nation and of the law, that a grant be made to us, and that we be placed in possession of the land we petition for, for ourselves, our children, heirs, and successors, which possession we solicit from the upper springs called the springs of Los Casos, which are towards the west, to the brow of the Cibolo on the east, and from west to south the summit of the sharp-edged hills of the cañon of Chilili; trusting to the generosity of your excellency that the grant be made to us, by which we will receive grace, favor, and justice.

SANTIAGO PADILLA,  
JOSE MA. PADIA,  
JULIAN PADIA,  
FRANCO. PACHECO,  
AGUSTIN PADIA,  
RAFAEL GALLEGOS,  
LUIS SALASAR,

*For themselves and in the name of twenty individuals.*

Most Excellent MANUEL ARMIJO,

*Civil and Military Governor.*

SANTA FE, March 20, 1841.

To Don ANTONIO SANDOVAL,

*Justice of the First Appointment of the Third Judicial District:*

That taking into consideration the well-known poverty of the petitioners, and that this government is well informed of the fact, said justice will place the petitioners in secure possession of the land they ask for, giving them such boundaries or limits as are set forth by them, informing them that as colonists they are to remain there without disposing of the land for four years, as required by law.

MANUEL ARMIJO,  
GUADALUPE MIRANDA,  
*Secretary.*

In view of the superior decree of Don Manuel Armijo, the most excellent governor and general commanding the department, and in due compliance therewith, Don Antonio No. Ruiz is hereby commissioned to

proceed and place the petitioners for the pueblo of Chilili in secure possession thereof, to whom, in full compliance with the directions of his excellency and the petition of the parties interested, he will establish the boundaries and erect mounds of stone, giving to each one lands according to his means for cultivation, informing them that the running springs and heads of streams are to be well taken care of, as belonging to them, that they be not trodden by sheep and goats, giving to each one a certificate as evidence of his right, title, and interest thereto in all time to come; and after having executed all acts necessary for a true and legal possession, he will put them under cover and will bring them to these archives, where they will remain as evidence in all time to come.

156

ANTONIO SANDOVAL,  
*Justice of First Appointment.*

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Be it further remembered that on the same day, to wit, the 30th day of November, A. D. 1894, a stipulation was filed in the said cause, in the office of said clerk, which said stipulation is in the words and figures following, to wit:

ELOISA L. BERGERE ET AL. }  
vs. } No. 58.  
THE UNITED STATES.

It is hereby admitted on behalf of the United States and stipulated that the deeds hereinafter mentioned are in due form and conveyed whatever interest the grantors therein had in said grant to the grantees, and that the clerk need not copy the same in the record, but in lieu thereof may include this stipulation:

	Date.	Recorded.
1. Placido Robles to Miguel A. Otero.....	July 14, 1879.....	Book A, 4, p. 243, in Valencia Co.
2. Jose Maria Sanchez y Baca to Manuel Antonio Otero.	July 15th, 1878.....	Book A, 4, p. 207, in Valencia Co.
3. Emilia Otero de Henriques and Charles H. Armijo to A. M. Bergere and wife and children.	March 14, 1893.....	Book B, 2, p. 216, in Valencia Co.
4. Juan Chaves y Baca and Juliana Castillo de Chaves to M. A. Otero.	July 22, 1878.....	Book A, 4, p. 205, in Valencia Co.
5. Placida Chaves y Baca to M. A. Otero.....	June 29, 1878.....	Book A, 4, p. 211, in Valencia Co.
6. Jose Luna y Lugarda Baca de Luna to M. A. Otero.	June 10, 1878.....	Book A, 4, p. 213, in Valencia Co.
7. Bartolo Chaves y Baca y Maria Anta, de Baca to M. A. Otero.	May 24, 1878.....	Book A, 4, p. 206, in Valencia Co.
158 8. Santiago Sanchez y Baca and Maria Perca de Sanchez to M. A. Otero.	June 27, 1878.....	Book A, 4, p. 210, in Valencia Co.
9. Mauricio Sanchez y Baca to M. A. Otero.....	June 27, 1878.....	Book A, 4, p. 209, in Valencia Co.
10. Candelaria Baca to Miguel A. Otero.....	August 4, 1879.....	
11. Julian Sanchez y Teresa Sanchez y Sanchez to M. A. Otero.	July 16, 1878.....	
12. Jesus Ma. Sena y Baca y Agapita Ortiz to M. A. Otero.	July 17, 1878.....	Book A, 4, p. 215, in Valencia Co.
13. Macio Chaves and Carmel Vigil de Chaves to M. A. Otero.	Feb. 14, 1869.....	

T. B. CATRON,  
*Attorney for Plaintiffs.*  
MATT. G. REYNOLDS,  
*United States Attorney.*

159 And be it further remembered that on the same day, to wit, the 30th day of November, A. D. 1894, a stipulation was filed in the said cause, in the office of said clerk, which said stipulation is in the words and figures following, to wit :

160 In the Court of Private Land Claims.

ELOISE L. DE BERGERE ET AL. }  
*vs.* } No. 58.  
 THE UNITED STATES. }

It is hereby stipulated and agreed that the old Spanish and Mexican archives in which the documents, records, and grant papers pertaining to land grants in New Mexico were kept, in Santa Fe, New Mexico, prior to its annexation to the United States, were partially destroyed and carried away by the revolutionists in the revolution which took place in New Mexico in 1837, and many of the said documents, records, and papers were lost, destroyed, or not returned ; and that afterwards, in the year 1870 or 1871, under Governor Pyles' administration, all the papers, documents, and records remaining in the old Spanish and Mexican archives which had not been turned over to the surveyor-general's office, and in which there were many documents, records, and papers pertaining to land grants and land titles in New Mexico, were sold for waste paper to the people generally and carried away, and many of them never recovered thereafter. The foregoing facts having been several times proven before the court in other cases, this agreement is made so as to avoid encumbering the record with voluminous evidence which can not be contradicted, and said facts so agreed to may be used on the trial as if proven by competent evidence.

MATT. G. REYNOLDS,  
*United States Attorney for the Court of Private Land Claims.*  
 T. B. CATRON,  
*Attorney for Petitioners.*  
 , 1894.

161 And be it further remembered that afterwards, to wit, on the 30th day of November, A. D. 1894, a stipulation was filed in said cause, in the office of said clerk, which said stipulation is in the words and figures following, to wit :

162 In the Court of Private Land Claims.

ELOISE L. DE BERGERE ET AL. }  
*vs.* } No. 58.  
 THE UNITED STATES. }

It is agreed that in making up the record in this cause the clerk may include only translations of the original Spanish and omit the Spanish of the documents, and such translations shall be used the same as the originals, with the right of either party to call for and present the original document or paper in the Spanish language, before the Supreme Court, on the hearing of the cause.

It is also stipulated that Melgares, who made the grant of the land in question, also on April 20, 1819, as governor of New Mexico, made a grant of land to Antonio Ortiz, which has been confirmed by Congress as

private land claim number 42, the grant papers thereof being included in Executive Document No. 18, House of Representatives, 2nd session, 26th Congress; also the same governor, during his term of office in 1819 and 1820, made two grants of land to Pedro Armendariz, which have been confirmed by the Congress of the United States as private land claims numbers 33 and 34, respectively, the granting papers thereof being contained in Executive Document No. 14, House of Representatives, 1st session, 26th Congress, from pages 193 to 231, inclusive; also, the same governor, on the 2nd of May, 1822, made the Anton Chico grant to Salvador Tapia, which has been confirmed as private land claim number 29; the copy of the papers thereof will be found in Executive Document No. 14, of the House of Representatives, 1st session, 26th Congress, commencing on page 138 thereof; also, the same governor, on the 20th day of August, 1820, made the grant of Our Lady of Light, in the city of Santa Fe, to the vicar-general of the Catholic Church, which said grant was confirmed by the Congress of the United States as private land claim No. 25, to John B. Lamy, and is found in House of Representatives Report No. 457, 1st session, 25th Congress. There have also been confirmed by the United States Court of Private Land Claims, sitting at Santa Fe, the grant called Cervilleta de la Joya, made to Carlos Gabaldon and others, in the year 1819, and is found in Executive Document No. 62, House of Representatives, 2nd session, 43rd Congress, and was reported as private land claim number 95; also a grant known as the Cañon de Carnue, which was made by the same governor in the year 1819, and has been confirmed by the United States Court of Private Land Claims; also, there are four other grants, claims for the confirmation of which are now pending before the United States Court of Private Land Claims, which were made by the said governor during his term of office, one called "La Gotera," another known as the "Lucero Spring," made in the year 1819; another called the "Ojito de las Medinas," made in 1819; and the other called the "Paraje del Rancho," made in 1821.

MATT. G. REYNOLDS,

*U. S. Attorney for the Court of Private Land Claims.*

T. B. CATRON,

*Attorney for Petitioners.*

, 1894.

164 And be it further remembered that afterwards, to wit, on the 29th day of September, A. D. 1894, the same being the thirtieth day of the August term, A. D. 1894, the following further proceedings were had in the said cause, to wit:

*Decree.*

165 UNITED STATES OF AMERICA,  
*Territory of New Mexico, ss:*

In the Court of Private Land Claims. Between Eloisa L. Bergere, petitioner, and The United States et al., respondents.

*Final decree.*

This cause having heretofore been heard upon the pleadings and exhibits filed, and upon proofs taken, full legal proof having been taken,

and counsel having been heard for the said parties, and the petition in this cause having been sustained by satisfactory proofs, after due deliberation, the court being now sufficiently advised in the premises, makes the following findings of fact :

First. That on February 4, 1819, Bartolomé Baca presented a petition to the then governor of the Province of New Mexico, Facundo Melgares, setting forth that he had registered a piece of vacant *piece of* land which was called the Torreon; that the said governor made the said grant as petitioned for on July 2, 1819, and directed José Garcia de la Mora to give possession, designating the limits and officiating duly; that afterwards, to wit, on September 12, 1819, the said official gave to the said Bartolomé Baca the actual possession of the said tract of land, called the Torreon, petitioned for.

Second. That the said tract of land, called the Torreon, had been in the actual possession of Bartolomé Baca for more than four years from the date of the grant on said September 12, 1819.

Third. That the said petitioner, who filed her petition for herself and other heirs of Manuel Antonio Otero and Miguel Antonio Otero, are the legal successors in interest to the rights of the said heirs of the said Bartolomé Baca.

The court finds as a matter of law that the grant to said Bartolomé Baca was imperfect at the time of the cession of the department of New Mexico to the United States of America by the treaty of Guadalupe Hidalgo, and that the petitioner for herself and other heirs of Manuel Antonio Otero and Miguel Antonio Otero, as the legal representatives of the said Bartolomé Baca, is entitled to a confirmation of eleven  
166 square leagues of land within the outboundaries of the tract of land called the Torreon granted to said Baca, and of which he was put in actual possession.

It is therefore ordered, adjudged, and decreed by this court that the claim of the petitioner for the land hereinbefore described and set out be, and the same is hereby, confirmed to the extent of eleven square leagues to the heirs and legal representatives of Bartolomé Baca, provided *tant* this confirmation shall not confer any right or title to any gold, silver, or quick-silver, mines or minerals of the same.

THOMAS C. FULLER,  
*Associate Justice,*  
O. K. REYNOLDS,  
*U. S. Atty.*

167 And be it further remembered that afterwards, to wit, on the 29th day of September, A. D. 1894, the same being the 39th day of the August term, 1894, the following further proceedings were had in the said cause, to wit :

ELOISA L. BERGERE ET AL., PETITIONERS,	}	Bartolome Baca grant. No. 58.
<i>vs.</i> THE UNITED STATES, RESPONDENT.		

And now, to wit, on September 29th, 1894, upon the petition for an appeal in the above-entitled cause being filed and presented in open court,

the defendant, The United States of America, by Matt G. Reynolds, esq., its attorney, being present and appearing thereto, it is ordered that the appeal be, and the same is hereby, allowed as prayed for.

THOMAS C. FULLER,  
*Associate Justice, Court of Private Land Claims.*

168 And be it further remembered that afterwards, to wit, on the 28th day of March, A. D. 1895, an appeal and allowance were filed in the said cause in the office of said clerk, which said appeal and allowance are in the words and figures following, to wit :

169 UNITED STATES OF AMERICA,  
*Territory of New Mexico, ss :*

In the Court of Private Land Claims, Santa Fe district, 1895. Between Eloisa L. Bergere for herself and the other heirs of Manuel Antonio Otero and Miguel Antonio Otero, and the United States of America, Joel P. Whitney, and Franklin H. Story. No. 58.

The above-named petitioner, Eloisa L. Bergere, for herself and the other heirs of Manuel Antonio Otero and Miguel Antonio Otero, feeling and considering herself aggrieved by the decree entered on the twenty-ninth day of September, A. D. 1894, in the above-entitled proceeding, whereby the grant of the Torreon made to Bartolome Baca is decreed to have been an imperfect grant at the time of the union of the department of New Mexico to the United States by the treaty of Guadalupe Hidalgo, and that the petitioner was only entitled to a confirmation of eleven square leagues of land lying within the outboundaries of said tract, doth hereby appeal from said decree to the Supreme Court of the United States, and prays that this appeal be allowed and that a transcript of the record and proceedings and papers upon which said decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

T. B. CATRON,  
JAMES W. VROOM,  
*Solicitors for the Petitioner, the Appellant.*

And now, to wit, March 23, 1895, upon the petition for an appeal in the above-entitled cause being filed and presented in open court, the defendant, The United States of America, by Matt G. Reynolds, esq., its attorney, being present and appearing thereto, it is ordered that the appeal be, and the same is hereby, allowed as prayed for.

JOSEPH R. REED,  
*Chief Justice.*

170 And be it further remembered that afterwards, to wit, on the eighteenth day of May, A. D. 1895, there was filed in the said cause in the office of said clerk a citation, which said citation is in the words and figures following, to wit :

171 *Citation on appeal to Supreme Court.*

UNITED STATES OF AMERICA, ss:

The President of the United States to the United States of America, and  
Joel P. Whitney and Franklin H. Story, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, to wit, on the eleventh day of May, 1895, pursuant to an appeal filed in the office of the clerk of the Court of Private Land Claims, wherein the United States is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this fourth day of May, in the year of our Lord one thousand eight hundred and ninety-five.

JOSEPH A. REED,  
*Chief Justice, Court of Private Land Claims.*

On this      day of      , 189      , personally appeared before me the subscriber,      , and makes oath that he delivered a true copy of the above citation to      .

Subscribed and sworn to before this      day of      , 189      .

I hereby acknowledge service of the foregoing citation for and on behalf of the United States, appellee, this 18th day of May, 1895.

MATT. G. REYNOLDS,  
*Attorney for Appellee, U. S.*

I hereby acknowledge service of the forgoing citation for      on behalf of the respondents, Joel P. Whitney and Franklin H. Story, this 18th day of May, 1895.

JNO. H. KNAEBEL,  
*Attorney for Whitney & Story, Appellees.*

172 UNITED STATES OF AMERICA,  
*Territory of New Mexico, ss:*

I, James H. Reeder, clerk of the Court of Private Land Claims, do hereby certify that the foregoing 171 pages contain a true, full, and complete transcript of the records and files in my office, in the case filed therein, in which Eloisa L. Bergere et al. are plaintiffs, and the United States et al. are defendants, for the confirmation of a certain claim known and designated as the Bartolome Baca grant.

Witness my hand and the seal of said court this 18th day of May, A. D. 1895.

[SEAL.]

JAMES H. REEDER, *Clerk.*



173 ELOISA L. BERGERE FOR HERSELF AND  
other heirs of Manuel Antonio Otero  
and Miguel Antonio Otero, plaintiffs and  
appelle's,

No. 58. Bartolome  
Baca grant.

U.S.

THE UNITED STATES, JOEL PARKER WHITNEY,  
and Franklin H. Story, defendants.

Now comes Matt. G. Reynolds, esq., United States attorney, and by authority of the Attorney-General of the United States, moves the court to allow the said defendant, the United States, an appeal from the decree entered on the 29th day of September, 1894, in the above-entitled suit to the Supreme Court of the United States; and shows to the court here that the statement by the United States attorney to the Attorney-General required by sec. 9 of the act of Congress establishing this court, approved March 3, 1891, was not made in said cause within sixty days after the rendition of judgment therein, but was made on February 8, 1895, and it appearing to the satisfaction of the court that the statement required to be made by the U. S. attorney to the Attorney-General, by sec. 9 of the act of Congress establishing this court, was not made within sixty days after the rendition of the judgement therein, but was made on, to wit, the 8th day of February, 1895; and it further appears that the time in which the other defendants herein might have appealed under said act from said decree has expired.

It is ordered that an appeal be, and hereby is, now allowed as prayed for.

UNITED STATES OF AMERICA.

Territory of New Mexico:

U. S. Court of Private Land Claims.

174 ELOISA L. BERGERE FOR HERSELF AND OTHER  
heirs of Manuel Antonio Otero and  
Miguel Antonio Otero, plaintiffs and  
appelle's,

vs.

THE UNITED STATES, JOEL PARKER WHITNEY,  
and Franklin H. Story.

I, James H. Reeder, clerk of the U. S. Court of Private Land Claims, do hereby certify that the above and foregoing is a true, full, and correct transcript of the proceedings had in the above-entitled cause on the 28th day of May, A. D. 1895, as the same appears of record in journal 2, Santa Fe.

Witness my hand and the seal of said court this 21st day of June, A. D. 1895.

[SEAL.]

JAMES H. REEDER, *Clerk.*  
BY IRENEO L. CHAVES.

UNITED STATES OF AMERICA, 88 :

The President of the United States to Eloisa L. Bergere for herself & other heirs of Manuel Antonio Otero and Miguel Antonio Otero, greeting :

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, to wit, on the 26th day of July, 1895, pursuant to an appeal filed in the office of the clerk of the Court of Private Land Claims, wherein the United States is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant as in the said appeal mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 28th day of May, in the year of our Lord one thousand eight hundred and ninety-five.

WILBUR F. STONE,

Associate Justice Court of Private Land Claims.

On this day of , 189 , personally appeared before me the subscriber, , and makes oath that he delivered a true copy of the above citation to .

Subscribed and sworn to before me this      day of      , 189      .

I hereby acknowledge service of the foregoing citation for and on behalf of the plaintiff and appellee this 8th day of July, 1895.

JAMES W. VROOM,

*Attorney for Appellee.*

176 (Indorsed :) Case No. 58, file No. . Eloise L. Bergere et  
al., plaintiffs, vs. The United States, defendant. Bartolome Baca.  
Matt. G. Reynolds, U. S. attorney.

177 In the Court of Private Land Claims. Appeal to the Supreme Court of the United States.

ELOISE L. DE BERGERE ET AL. }  
*vs.* }  
 THE UNITED STATES ET AL. }

I, J. H. Reeder, clerk of the United States Court of Private Land Claims, do hereby certify that the foregoing one hundred and seventy-two pages contain a true, full, and complete transcript of all of the pleadings, records, proceedings, and files in my office, as also all the evidence and proofs had, received, and heard in the cause filed and tried in the Court of Private Land Claims of the United States, including certain stipulations to take the place of certain deeds of conveyance and other grants of land used in evidence on said trial, said stipulations being included therein, in which cause Eloise L. Bergere et al. are the plaintiffs and the United States et al. are the defendants, said cause being for the confirmation of a certain private land claim or grant commonly known and designated as the Bartolome Baca grant.

In witness whereof I have hereunto set my hand and affixed the seal of said Court of Private Land Claims of the United States, at Santa Fe, New Mexico, this the first day of July, A. D. 1895.

[SEAL.]

JAMES H. REEDER,  
*Clerk.*

By IRENEO L. CHAVES,  
*Deputy Clerk.*

178 In the Supreme Court of the United States, October term,  
A. D. 1895.

ELOISE L. DE BERGERE ET AL. }  
vs. }  
THE UNITED STATES. }

There being some doubts expressed as to whether the certificate of the clerk of the Court of Private Land Claims attached to the record in the above-entitled cause is sufficient to show that the said record contains a complete and perfect transcript and copy of the records of the pleadings, proceedings, and all of the evidence which was used in said cause, and said record having been filed and said cause docketed before a correction of said certificate could be made:

Now, therefore, in order to avoid the necessity of a return of said record to the clerk of said Court of Private Land Claims in order that a more perfect certificate may be made, it is hereby stipulated and agreed by and between the petitioners in said cause by their attorney and by the said United States, defendant, by its Solicitor-General, that the clerk of the Supreme Court of the United States be, and he hereby is, authorized to correct the record in said cause by annexing to the same the accompanying certificate of the clerk of the Court of Private Land Claims and by detaching from or cancelling on the same the certificate which was transmitted with said record; and that the certificate hereto annexed shall be used and taken as the certificate of said record instead of the said other certificates so hereby directed to be detached or cancelled.

T. B. CATRON,  
*Attorney for the Petitioners.*  
HOLMES CONRAD,  
*Solicitor-General.*

179 (Indorsed:) Case Nos. 15913 & 15948. Supreme Court U. S. October term, 1895. Term Nos., 625 & 658. Eloisa L. Bergere, &c., appt., vs. The United States et al., 625; and The United States, appt., vs. Eloisa L. Bergere, &c. Certificate of clerk as to transcript of record & stipulations. Office Supreme Court U. S. Filed Aug. 3, 1895, James H. McKenney, clerk.

(Indorsement on cover:) Case No. 15913. Term No., 625. Court of Private Land Claims. Eloisa L. Bergere for herself and the other heirs of Manuel Antonio Otero & Miguel Antonio Otero, appellant, vs. The United States et al. Filed May 23rd, 1895; and Case No. 15948. Term No., 658. The United States, appellant, vs. Eloisa L. Bergere for herself & the other heirs of Manuel Antonio Otero & Miguel Antonio Otero. Filed July 16, 1895.